

EASTERN BAND OF CHEROKEE INDIANS v. W. H. THOMAS
ET AL.

L E T T E R

FROM

THE ACTING SECRETARY OF THE TREASURY,

TRANSMITTING

A communication from the Attorney-General submitting two agreements of compromise in two suits respectively of the Eastern Band of Cherokee Indians v. W. H. Thomas et al., and of the United States v. W. H. Thomas et al., now pending in the U. S. circuit court for the western district of North Carolina.

FEBRUARY 27, 1894.—Referred to the Committee on Appropriations and ordered to be printed.

TREASURY DEPARTMENT,
February 26, 1894.

SIR: I have the honor to transmit herewith, for the consideration of Congress, a communication from the Attorney-General, of the 23d instant, transmitting two agreements of compromise in two suits, respectively, of the Eastern Branch of Cherokee Indians v. William H. Thomas, et al., and of the United States v. William H. Thomas et al., now pending in the U. S. circuit court for the western district of North Carolina, together with accompanying papers, and recommending that Congress confirm the said agreements, and make such an appropriation as may be necessary to carry the same into effect, which amount it is estimated will not exceed the sum of \$68,000.

Respectfully, yours,

S. WIKE,
Acting Secretary.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

DEPARTMENT OF JUSTICE,
Washington, D. C., February 23, 1894.

SIR: I have the honor to transmit herewith two agreements of compromise in the two suits, respectively, of the Eastern Band of Cherokee Indians v. William H. Thomas et al., and of the United States v. William H. Thomas et al., both now pending in the U. S. circuit court for the western district of North Carolina. Said agreements have been

entered into between the United States, acting for the Eastern Band of Cherokee Indians, and the defendants in said suits who occupy and claim a part of the Qualla boundary of land adversely to said Indians. For reasons hereinafter given I recommend that Congress confirm said agreements and make such appropriations as is necessary to carry the same into effect.

The Qualla boundary is a large tract of land lying on Soco Creek in Jackson County and Oconaluftee River in Swain County, N. C., containing about 75,000 acres of which the defendants mentioned in the two agreements of compromise occupy and claim about 40,000 acres. From 60 to 75 white and colored families reside thereon, being the defendants or those holding under them who claim the same adversely to the Indians. The remainder of the Qualla boundary, which is estimated to contain about 35,000 acres, is occupied by about from 150 to 200 Indian families or about 800 persons in all, members of the Eastern Band of Cherokee Indians.

The accompanying map of the Qualla boundary of land prepared by Mr. Frank A. Pierce, surveyor appointed in the suit of the United States *v.* William H. Thomas, *supra*, shows the location of the Qualla boundary of land and that part of it that is occupied and claimed by the defendants adversely to the Indians.

The Eastern band of Cherokee Indians numbers about 1,300 persons, about 800 of whom reside inside of the Qualla boundary. The remainder of the tribe reside in Jackson and Swain counties outside of the Qualla boundary, and in Graham and Cherokee counties, N. C. They hold title to their lands by purchase and not by occupancy, a few in severalty, but most of them in common and under two deeds as follows:

(1) A deed of the Qualla boundary by William Johnston and wife to the Eastern Band of Cherokee Indians, bearing date October 9, 1876, and containing this proviso:

Without the power of alienation, except by and with the assent of their (the Indian) council and the approval of the President of the United States.

This deed was executed by William Johnston and wife to the Eastern Band of Cherokee Indians in supposed conformity to an award made October 23, 1874, by Rufus Barringer, John H. Dillard, and T. Ruffin, arbitrators in the above-mentioned suit of the Eastern Band of Cherokee Indians *v.* William H. Thomas *et al.*

(2) The second deed embraces the land above referred to outside of the Qualla boundary, and was executed August 14, 1880, by William Johnston and wife and W. L. Hilliard *et al.* to the Commissioner of Indian Affairs as trustee of the Eastern Band of Cherokee Indians, and is known as the Sibbald deed. This deed embraces several tracts of lands in Jackson and Swain counties, some of which adjoin the Qualla boundary and various and sundry tracts of lands in Graham and Cherokee counties, containing in the aggregate 15,211½ acres. Of this, 4,188 acres is land that had been awarded by the arbitrators aforesaid to individual Indians of the tribe to be held in severalty. Copies of the bill in equity in United States *v.* William H. Thomas *et al.*, *supra*, of the award above referred to, of the deed executed in supposed conformity thereto, and of said Sibbald deed, are transmitted herewith and marked, respectively, A, B, C, and D.

The two agreements of compromise relate solely to the Qualla boundary. Reference, however, is made to the land outside of the Qualla boundary and embraced in the Sibbald deed, for the reason that some of this land is in litigation in the suit of the United States *v.*

Note
This part of Qualla Boundary said to contain
33000 Acres in litigation with R.D. Gilmer Trustee of
James R. Leno Estate.

W.A. Edge

A. Mingus

W.A. Campbell

YELLOW HILL

Note
More than one half of the land in Birdtown
Settlement is occupied by the alleged
trespassers
BIRDTOWN
50 to 60 families.

Map of
Qualla Boundary

Eastern Cherokee Indian Reservation

situated in
N. C.

Prepared by S.A. Grier
Surveyor

William H. Thomas. For a full account of the title of the Indians to the lands in question within and without the Qualla boundary and the litigation respecting the same, reference may be had to the exhibits already above specified and to the following documents marked, respectively, E, F, G, and H, to wit:

E. A communication bearing date November 12, 1875, from James Stevenson and Paul Brodie to the Hon. E. P. Smith, Commissioner of Indian Affairs, Washington, D. C., which document relates exclusively to the Qualla boundary of land and was made immediately after the award aforesaid. F. A report of Eugene White, United States special Indian agent, dated December 7, 1875, and made to the Hon. J. D. C. Atkins, Commissioner of Indian Affairs, Washington, D. C. G. A letter from the Secretary of the Interior, in response to resolution of the House of February 25, 1882, relative to the lands and funds of the Eastern Band of North Carolina Cherokee Indians. (Ex. Doc. No. 196, Forty-seventh Congress, first session.) H. A report made to this Department by George H. Smathers, esq., assistant United States attorney, November 25, 1893.

The suit of the Eastern Band of Cherokee Indians *v.* Wm. H. Thomas *et al.*, above referred to, was begun under an act of Congress passed July 15, 1870 (16 Statutes, p. 362), empowering the said Indians by the name and style of "The Eastern Band of Cherokee Indians" to sue their present or any former agent in the district or circuit courts of the United States. Without here reciting the voluminous pleadings in the case or even undertaking to set out their substance, it is sufficient to say that the plaintiffs' claims were that their agent, the defendant Thomas, had received large sums of money due them by the United States for the purpose of buying for the plaintiffs the Qualla boundary and other lands; that Thomas had bought the lands and had taken conveyances to himself regardless of his fiduciary relations to the plaintiffs; that the defendant Johnston, a creditor of Thomas's, with knowledge of the plaintiffs' equities, had caused said lands to be sold on execution and the sheriff's deeds thereof to be made to himself; and that another defendant, Terrell, a disbursing agent of the United States, had unlawfully paid to Thomas a large sum of money belonging to the plaintiffs. The bill prayed, among other things, that Thomas and Johnston might be declared to hold the lands in question as trustees for the plaintiffs and might be decreed to convey it to them.

The several defendants having filed answers to the bill, the cause and all matters in controversy therein was referred to arbitrators. There was also referred at the same time to the same arbitrators a suit at law wherein the same plaintiffs sued the said Terrell and the sureties on his bond as the plaintiffs' agent for matters growing out of said agency. The arbitrators subsequently made their award, which was entered in each of said suits as a decree of court. By it, it was established and ordered—

First, that Thomas bought the Qualla boundary as agent and trustee for the plaintiffs.

Second, that there was due him on account of money expended in such purchase a balance which should be paid and afterwards was paid to his creditor Johnston by the United States.

Third, that Thomas had secured good title to all land in the Qualla boundary, except a parcel of 344 acres (the Ute Shernell tract), and

Fourth, that Thomas's title papers should be registered in the proper State offices and be delivered to one Rollins, the plaintiffs' agent, for that purpose.

Notwithstanding this direction of the arbitrators, title papers to less than half the acreage of the Qualla boundary were registered. The title papers to the balance were lost or destroyed without registration—in all probability through the fault and neglect of the officials of the United States. As the result of such nonregistration, the land not covered by registered titles is now occupied by from 60 to 75 families who hold adversely to the plaintiffs (the Indians) and have so held for different periods, covering from five to nearly twenty years, and whose claims are founded not merely upon possession but upon State grants of lands which were at the time of such grants apparently vacant and subject to entry. In 1888, for the purpose of ascertaining and enforcing the title to the land of the Indians so claimed and occupied and for other purposes, a bill and supplemental bill were filed by the United States against the parties in possession, who, by way of defense, in the first place allege that they are not bound by the award already mentioned, because not having been made parties to the suit, and in the second place set up the said State grants to themselves or those under whom they claim. The result is that there is now put upon the plaintiff the burden of establishing the existence and contents of the lost title papers, something which, in the opinion of the special counsel employed (an opinion confirmed by such personal inquiry and investigation as I have myself been able to make), it is probably impracticable to do.

In this connection it should be added that an act of the general assembly of North Carolina, chapter 211 of the private laws of 1889, expressly validates as against the State all the grants and deeds through which these Indians hold title to these lands. The effect is, that, though the act by its terms does not apply to the defendants in the suits in question because they were claimants when the act was passed, it does protect and provide against future State grants of the same lands, so that, a good title being once obtained by the Indians, they will themselves be able to assert and vindicate their rights in the State courts against all comers, and the United States will be relieved of all duty or charge in the premises.

In this state of things—believing that the agreements of compromise submitted will, if carried into execution, secure the Indians a perfect title to the land inside of the Qualla boundary and leave unsettled only a comparatively unimportant controversy respecting certain tracts of land outside the boundary, which the special counsel employed informs me is in the way of immediate settlement without cost to the United States exceeding appropriations already made—the propriety of the proposed compromise seems indubitable. The duty of the United States in the premises has never been questioned and need not be enlarged upon. Through its agents it held or received the full purchase money of the lands in question from, or on account of, the Indians and is bound either to secure them the land or to pay over to them the money. This obligation the United States has never undertaken to ignore or to avoid, and in the fulfillment of it is the real promoter of the litigations now sought to be compromised. Regarding the United States, therefore, as the guarantor to the Indians of their lands, the only question is of the true mode of executing that guarantee. Shall it be done by pursuing the present litigations, with their uncertainty of result, their great cost, and their inevitable delays, or shall it be done through the compromise suggested? Upon the evidence before me I have no hesitation in advising the latter course both as matter of justice to the Indians and in the interest of the United States, because I do not think the rights of the

former should be longer kept in abeyance without sufficient reason, and because the prospects of any useful results from the pending suits seem to me exceedingly small.

The amount required to carry the two agreements of compromise into execution, including therein incidental expenses, will not exceed \$68,000, and may fall short of that sum by several thousand dollars. In arriving at that figure the main factor, of course, has been the value of the lands in controversy. As respects that value, it will be understood that the Department of Justice has no special or peculiar means of information. Great pains, however, have been taken to reach correct results. The lands inside the Cathcart tract, Yellow Hill and Bird Town settlements, were first appraised by the special counsel for the United States after thorough personal inspection of the premises. As that appraisement was not acceptable to the defendants, a second valuation was made by three competent persons, agreed upon by the counsel of the respective parties, whose results as well as the methods employed form part of the papers herewith submitted. The value of the remainder of the land in controversy is that fixed by the special counsel for the United States, whose personal acquaintance with the premises makes him peculiarly qualified to make a correct estimate of such value, and whose judgment has been acquiesced in by the parties in interest and has been confirmed by that of such other competent persons as I have been able to confer with. Under the circumstances, therefore, the conclusion that the sum stated as the amount necessary to carry the proposed compromises into execution is reasonable and just, seems to me fully warranted.

Very respectfully,

RICHARD OLNEY,
Attorney-General.

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

WASHINGTON, D. C., *January 18, 1894.*

SIR: Since my report was submitted to you as to the status of the litigation of the Eastern Band of Cherokee Indians bearing date November 25, 1893, the defendants who claim the 33,000 acres of land adjacent to the land actually occupied by the Indians and included within the boundaries of the deed executed by William Johnston and wife to the Eastern Band of Cherokee Indians on the 9th day of October, 1876, intended to give effect to the award of the arbitrators appointed to settle the controversy between the Eastern Band of Cherokee Indians and William H. Thomas *et al.* and to the decree made in pursuance to said award have proposed to compromise the litigation upon terms satisfactory to the district attorney and are deemed fair and just by the district judge, Hon. R. P. Dick, and the master in chancery, Col. R. M. Douglas, to whom the same has been referred and who has given much time and attention to an examination of the questions involved.

The status of this branch of the litigation is briefly as follows: The boundary of the land mentioned in the deed above includes the 33,000 acres and it adjoins the lands occupied by the Indians but no part of it is in their actual possession. The defendants, the heirs at law of James R. Love, contend that William H. Thomas, now deceased, was never the owner of said land except an equitable interest of an undivided twenty-fourth but that the legal title of the land is in a trustee

who has power of sale and holds for a number of persons to wit: fourteen undivided twenty-fourths for the said heirs at law of James R. Love and the remaining interest for the benefit of other defendants named as beneficiaries in the pleadings. Both the heirs at law of William H. Thomas, deceased, and R. D. Gilmer, trustee, and beneficiaries for whom he holds, contend the deed executed under said decree was made in accordance with a survey made under a misapprehension of the true boundary and should be corrected so as to conform to the proviso in the deed and only embrace the land purchased by Johnston at sheriff's sale.

The counsel for the United States for and in behalf of the Indians contend on the other hand that the said William H. Thomas, now deceased, was at the time of the award the owner of the whole of the said 33,000 acres of land, and if not the owner of the whole, that his undivided twenty-fourth in the larger boundary of land of about 200,000 acres of which the 33,000 acres is a part, should by partition be assigned the said Thomas or his heirs in the 33,000 acres so as to perfect the title of the Indians.

Reference is also made to pages 9, 10, 11, and 12 of my former report as to the status of this branch of the litigation.

In view of the uncertainty of the result of this litigation and in consequence of the recommendations as to a compromise made by the officials hereinbefore mentioned, and in order to secure to the Indians what I conceive to be a long-deferred right I recommend a compromise of this branch of the litigation upon the terms set forth in an agreement bearing even date with this report in which it is agreed that the United States shall pay the said defendants the price of one dollar and twenty-five cents (\$1.25) per acre for said 33,000 acres of land.

If the terms of compromise should meet your approval this will end the litigation as to the Qualla boundary of land, and I do not believe that the title of the Indians will ever again be questioned and they will be permitted to reside therein in peace.

I herewith hand you said agreement together with this report for your consideration.

Respectfully submitted.

GEORGE H. SMATHERS,
Special Assistant U. S. Attorney.

Hon. RICHARD OLNEY,

Attorney-General of the United States, Washington, D. C.

I have examined this report and do hereby endorse and approve the same, together with the terms of compromise entered into between George H. Smathers, special assistant U. S. attorney and the alleged trespassers inside of Cathcart tract and Yellow Hill and Bird Town settlements of Qualla boundary, bearing date December, 1893.

R. B. GLENN,
U. S. Attorney, Western District, North Carolina.

IN THE CIRCUIT COURT, FOURTH JUDICIAL DISTRICT.

UNITED STATES OF AMERICA, *Western District of North Carolina.*

EASTERN BAND OF CHEROKEE INDIANS

vs.

WM. H. THOMAS, SINCE DECEASED, WM.
JOHNSTON, SINCE DECEASED, W. P.
HYDE, et. al.

UNITED STATES OF AMERICA

vs.

WM. H. THOMAS, SINCE DECEASED, WM.
JOHNSTON, SINCE DECEASED, THOMAS D.
JOHNSTON, EXECUTOR OF WM. JOHNS-
TON, DECEASED, JAMES R. THOMAS, et.
al, AS AT LAW OF WM. H. THOMAS,
DECEASED, W. P. HYDE, et. al.

In the two above entitled causes the following compromise is agreed upon as between A. C. Avery as attorney for the heirs at law of W. H. Thomas, deceased, to wit: W. H. Thomas, Jr., James R. Thomas, and Sallie L. Avery; and as attorney for R. D. Gilmer, trustee, authorized to make sale of the speculation lands of James R. Love, deceased, and as administrator de bonis non cum testamento annexo of the said James R. Love; and George H. Smathers, special assistant U. S. attorney for the Western District of North Carolina, attorney for complainants, that is to say: It is agreed upon the part of the Eastern Band of Cherokee Indians and the United States, complainants in the two above entitled causes, that the United States shall pay the said R. D. Gilmer, trustee and administrator as aforesaid the sum of one dollar and twenty five cents (\$1.25) per acre for said land which is claimed by complainants to be a part of the Qualla boundary of land that lies in between the Cathcart tract, the Hughes Ridge and the Balsam and Smoky Ranges of Mountains, estimated to contain about 33000 acres of land, and in controversy in said suits.

And it is agreed upon the payment of the said sum of one dollar and twenty-five cents (\$1.25) per acre for said land to the said R. D. Gilmer, trustee and administrator as aforesaid that possession shall be delivered of the said 33000 acres of land by the said R. D. Gilmer, trustee and administrator as aforesaid, to the whole of said boundary of land over to the Eastern Band of Cherokee Indians on or before the first day of December 1894; and it is further agreed that the said R. D. Gilmer, as trustee and administrator as aforesaid, shall execute to the Eastern Band of Cherokee Indians, a quit claim deed and fee simple to said 33000 acres of land and a decree shall be entered in the two above entitled causes divesting all the right title and interest of the said R. D. Gilmer, trustee and administrator as aforesaid, and M. M. Stringfield and other heirs at law of the said James R. Love, deceased, and R. V. Welch, and others, beneficiaries in the Love speculation lands; and defendants in the two causes, in and to the said 33000 acres of land.

And it is further agreed that no money is to be paid to the said R. D. Gilmer, trustee and administrator as aforesaid or his successors in office, until any and all incumbrances on the said 33000 acres of land such as judgment liens, mortgages, deeds in trust, purchase money notes, etc.; shall be paid off and fully discharged and cancelled on the proper records; and until all contracts to convey any part of the said 33000 acres of land shall have been rescinded, surrendered up and cancelled.

This agreement of compromise is made subject to the approval of the Department of Justice of the United States and conditioned upon the 53d Congress making the necessary appropriation to carry the same into effect and the payment of the money to the said R. D. Gilmer, trustee and administrator as aforesaid according to the terms herein agreed to.

And it is further agreed that in case of dispute as to whether all incumbrances are removed on said land, it is mutually agreed that the Master in Chancery, R. M. Douglas, may take evidence and report in term time or at chambers and his report shall be final and conclusive as to the same.

And this agreement shall have the effect of a decree in the above entitled causes.

A. C. AVERY,

Attorney for R. D. Gilmer, trustee and administrator of James R. Love, and for the *cestui que trust*, for whom he holds and as attorney for the heirs at law of W. H. Thomas, deceased.

GEO. H. SMATHERS,

Spl. Asst. U. S. Attorney, Attorney for Complainants.

I endorse and approve this agreement this Jan'y. 20, 1894.

R. B. GLENN,

U. S. Attorney, Western District Attorney.

In the Circuit Court, Fourth Judicial District.

UNITED STATES OF AMERICA, *Western District of North Carolina:*

EASTERN BAND OF CHEROKEE INDIANS
vs.
 WM. H. THOMAS, SINCE DECEASED, WM. JOHNSTON,
 since deceased, W. P. Hyde and others.

UNITED STATES OF AMERICA
vs.
 WM. H. THOMAS, SINCE DECEASED, WM. JOHNSTON,
 since deceased, Thomas D. Johnston, executor of
 Wm. Johnston, deceased, James R. Thomas, and
 others, heirs at law of Wm. H. Thomas, W. P. Hyde,
 and others.

In the two above entitled causes, the following compromise is agreed upon:

As to the defendants hereinafter named, that is to say:

It is agreed upon the part of the Eastern Band of Cherokee Indians and the United States, complainants in the two above entitled causes, that the United States shall pay the following defendants the following sums, to wit:

W. A. Campbell, Waynesville P. O., Haywood Co., N. C	\$75.00
W. A. Enloe, Oconalufy P. O., Swain Co., N. C	1,350.00
W. A. Enloe, for Connor heirs	225.00
A. H. Hayes, Birdtown P. O., Swain Co., N. C	2,225.00
M. E. Hayes, Birdtown P. O., Swain Co., N. C	700.00
M. E. Hayes and L. E. Neison, same P. O	78.00
Uriah Cooper, same P. O	450.00
G. B. Cooper, same P. O	75.00
J. F. Bradburn and G. B. Cooper. same P. O	1,600.00
David Wiggins, same P. O	400.00
J. B. Keener, same P. O	475.00
J. R. Kinsey, same P. O	660.00
E. S. Keener, same P. O	1,200.00
Bartlett Dills, same P. O	490.00
Allen Childers, same P. O	75.00
Bloom Baker, same P. O	300.00
Ann Wilson (alias Ann Childers), and three children, as follows: Mary, Robert Lee, and Eva Caldonia, widow and heirs at law of John Wilson, (alias John Childers) dec'd. same P. O	600.00
Nimrod Childers, same P. O	750.00
R. A. Dills, same P. O	75.00
R. E. (or Rant) Gibson, same P. O	262.50
D. W. (or Bose) Love, same P. O	500.00
Wash Gibson, same P. O	131.25
Tolitha Tomkins, and children, to wit: Hattie Gibson, Nannie Tomkins, Mattie Tomkins, Sallie Tomkins, widow and heirs at law of Landon Tomkins, deceased, same P. O	225.00
Tolitha Tomkins, same P. O	150.00
David Johnston, same P. O	75.00
James Powell, same P. O	112.50
Thomas Mills, same P. O	465.00
Jake Bolt and Clark Turk, same P. O	150.00
J. H. Moseley, same P. O	412.50
Christenbury Howell, same P. O	412.50
Baker Ayers, same P. O	600.00
A. J. McNeese, same P. O	250.00
Charley Parker, same P. O	1,100.00
Laura J. Thomas, same P. O	300.00
Mary J. Burchfield, R. P. Hyde, S. A. Hyde, and M. M. Hyde, Cherokee P. O., Swain Co., N. C	1,575.00
Mary Burchfield, Cherokee P. O., Swain Co., N. C	150.00
W. P. Hyde, Cherokee P. O., Swain Co., N. C	600.00
S. A. Hyde, Cherokee P. O., Swain Co., N. C	200.00
Coleman Seay, same P. O	262.50
John Woody, Bushnell, Swain Co., N. C	37.50
W. H. Queen, Oconalufy P. O., Swain Co., N. C	112.50
E. Everett, admr. with the will annexed of Clark Whittier, deceased, Bryson City, Swain Co., N. C	1,200.00

E. Everett Wesley Enloe, and Abram Mingus, Oconalufy P. O., Swain Co., N. C.....	\$400. 00
J. E. Martin, Whittier P. O., Swain Co., N. C.....	262. 50
W. C. Martin, same P. O.....	1, 200. 00
C. T. Sisk, Oconalufy P. O., Swain Co., N. C.....	168. 75
J. H. Teague, Whittier, Swain Co., N. C.....	200. 00
J. D. Wiggins, guardian of minor heirs of Thomas Wiggins, deceased, Birdtown P. O., Swain Co., N. C.....	500. 00
R. O. Patterson, Bryson City P. O., Swain Co., N. C.....	250. 00
M. J. L. Blanton.....	400. 00
H. S. Baker.....	84. 00
	24, 552. 00

And it is agreed upon such payment of said sums to each of the defendants above named, and to the guardians of the minor defendants, that they each shall quit the possession of the several tracts of land now occupied by themselves or tenants, inside of the "Qualla Boundary" of land, and shall execute to the Eastern Band of Cherokee Indians a quit-claim deed to any and all lands claimed by them, respectively, inside of the said "Qualla Boundary" of land, as per survey of M. S. Temple, Deputy U. S. Surveyor, and a deed executed in accordance with said survey, by Wm. Johnston and wife Lucinda M. Johnston to the Eastern Band of Cherokee Indians on the 9th day of October 1876, which deed was duly registered in the Office of the Register of Deeds of Swain Co., N. C., in Book "B" No. 2, pages 290 etc. the 8th day of July 1880, in which deed the said defendants shall execute a warranty to the title of the land as against themselves and their heirs, and all persons claiming by, through or under them. And a decree shall be entered in the two above entitled causes divesting all the right, title and interest of the said defendants herein named in and to the said "Qualla Boundary" of land, and it is agreed that a writ of possession shall issue from the U. S. Circuit Court at Asheville, N. C. on the 1st day of December 1894, removing the defendants from the possession of the said "Qualla Boundary" of land, or such of them as have not vacated the same at an earlier date. *Provided however* That the sum of 4 per cent per annum shall be deducted from the amount due to each defendant as herein provided, from the time of payment to the first day of December 1894, which said sum of 4 per cent shall be paid to the said Eastern Band of Cherokee Indians in lieu of rents, but only to be paid by those defendants who are cultivating the several tracts within said boundary.

And it is further agreed that no money is to be paid to the defendants herein named or their representatives until any and all incumbrances on the respective tracts of land, such as judgment liens, mortgages, deeds in trust, purchase money notes, &c., shall be paid off and fully discharged, and cancelled on the proper records; and until all unregistered bonds for title, and other contracts to convey any of the said tracts of land, shall have been surrendered and cancelled. And it is further agreed that W. B. Ferguson and G. S. Ferguson, attorneys for defendants, shall prepare and furnish to George H. Smathers, Special Assistant U. S. Attorney, an abstract showing the chain of title to each tract of land claimed by defendants, together with a statement showing any and all incumbrances or liens on each tract, the amount of such incumbrance or lien, to whom due, and where registered; the same to be furnished as speedily as it is practicable.

Provided further, that the land for which Uriah Cooper is to be paid (\$450.00), estimated to contain fifty acres, is a part of a larger tract of land, some of which lies on the outside of the "Qualla Boundary," and the sum of \$450.00 is made upon the basis that there are fifty acres of said tract inside of the "Qualla Boundary," and if upon a survey of said land there is less than fifty acres, then the sum of nine dollars per acre for the number of acres less than fifty acres is to be deducted from the said sum of four hundred and fifty dollars.

And there are other tracts of land that lie partly on the inside and partly on the outside of the "Qualla Boundary," and the sums to be paid therefor are based on the number of acres being inside of the "Qualla Boundary," as set forth in the report and appraisalment made by George H. Smathers to the Attorney-General of the U. S., and if there should be a less number of acres inside of "Qualla Boundary" than set forth in said report and appraisalment upon a survey thereof, then a deduction is to be made according to the difference in value, by reason of the discrepancy.

This agreement of compromise is made subject to the approval of the Department of Justice of the United States, and conditioned upon Congress making the necessary appropriation to carry the same into effect, and the payment of the money to the defendants herein named, or their legally authorized attorneys.

GEORGE H. SMATHERS,
Spl. Asst. U. S. Attorney, Counsel for Complainants.
W. B. FERGUSON,
G. S. FERGUSON,
Attorneys for Defendants.

EXHIBIT A.

UNITED STATES CIRCUIT COURT, WESTERN DISTRICT OF NORTH CAROLINA.

IN EQUITY.

THE UNITED STATES AGAINST WILLIAM H. THOMAS, W. L. HILLIARD, AND OTHERS.

BILL.

To the Honorable the Judges of the Circuit Court of the United States for the Western District of North Carolina :

The United States of America brings this its bill against William H. Thomas, W. L. Hilliard, guardian, William Johnston, James W. Terrell, Thomas D. Johnston, John Q. Smith, Penn Kline, alias W. P. Hyde, David Johnson, Geo. W. Gibson, Christianberry Howell, Tabitha Tompkins, Thomas Mills, J. H. Mosly, A. H. Hayes, H. A. Keener, E. S. Keener, Berry Cooper, D. W. (or Bose) Love, J. B. Keener, John R. Kinsey, H. S. Baker, Bartlett Dills, W. A. Enloe, Humphrey Childers, I. M. Hensley, M. C. Hensley, T. W. Keener, Eliza Keener, Albert S. Keener, H. P. Childers, Arminda Wilson, Nimrod Childers, Landon Tompkins, C. C. Martin, W. C. Martin, A. Keener, John M. Enloe, N. R. Kinsey, T. C. Childers, Wm. H. Thomas, jr., Jackson Williams, John Enloe, Susannah E. Hyde, Cling Childers, Mary E. Hyde, W. H. Enloe, Ute Sherrell, Wm. Cooper, Carroll Martin, George Sherrell, Uriah Cooper, Robert Burchfield, Joseph Keener, John Kinsey, Smith Baker, Blue Baker, Baker the elder, — Putman, George Keener, Will Laney, Will Davis, — McNesia, — Winchester, Coleman Scea, James Edwards, Andrew Burchfield, Harrison Coleman, Richard Dills, Ramsey Gibson, Budd Johnson, Eliza Tompkins, Bill Moseley, Budd Parker, Andrew Shields, I. V. Cooper, Reuben Carver, D. K. Blanton, A. B. Hyatt, Tyra Higdon, John Grant, James G. Brooks, Martin Parker, Isaac Lovinggood, Benjamin Killian, James Williamson, John Graves, John Dockery, Wm. Cline, N. O. Rabb, Gus Bradley, Dewitt Ghomley.

And thereupon your orator complains and says:

I. That heretofore, to wit, on the 29th of December, 1835, a treaty (7 Stats., 478) was made and concluded between your orator and the Chiefs, Head-men, and People of the Cherokee tribe of Indians, at New Echota, in the State of Georgia, and was duly ratified and proclaimed; that the principal object of the said treaty was to effect the removal of the said tribe of Indians from the territory then occupied by them east of the river Mississippi to a region of country set apart for them west of the said river; that the said treaty also provided (article 12) that "those individuals and families of the Cherokee nation that are averse to a removal to the Cherokee country west of the Mississippi and are desirous to become citizens of the States where they reside, and such as are qualified to take care of themselves and their property, shall be entitled to receive their due portion of all the personal benefits accruing under this treaty for their claims, improvements, and *per capita*, as soon as an appropriation is made for this treaty"; that in pursuance of this article of the treaty, Congress, by the fourth and fifth sections of an act approved 29th July, 1848 (9 Stats., 264), entitled "An act making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with the various Indian tribes for the year ending June thirtieth, eighteen hundred and forty-nine, and for other purposes," provided as follows:

"SEC. 4. *And be it further enacted*, That the Secretary of War cause to be ascertained the number and names of such individuals and families, including each member of every family of the Cherokee Nation of Indians, that remained in the State of North Carolina at the time of the ratification of the treaty of New Echota, May twenty-three, eighteen hundred and thirty-six, and who have not removed west of the Mississippi, or received the commutation for removal and subsistence, and report the same to the Secretary of the Treasury; whereupon the Secretary of the Treasury shall set apart, out of any moneys in the Treasury not otherwise appropriated, a sum equal to fifty-three dollars and thirty-three cents for each individual ascertained as aforesaid, and that he cause to be paid to every such individual, or his or her legal representative, interest at the rate of six per cent. per annum on such per capita, from the said twenty-third day of May, eighteen hundred and thirty-six, to the time of the passage of this act, and continue annually thereafter said payment of interest, at the rate aforesaid.

"SEC. 5. *And be it further enacted*, That whenever, hereafter, any individual or individuals of said Cherokee Indians shall desire to remove and join the tribe west of the Mississippi, then the Secretary of War shall be authorized to withdraw from the fund set apart as aforesaid the sum of fifty-three dollars and thirty-three cents and

the interest due and unpaid thereon, and apply the same, or such part thereof as shall be necessary, to the removal and subsistence of such individual or individuals, and pay the remainder, if any, or the whole, if the said Indians or any of them shall prefer to remove themselves, to such individuals or heads of families upon their removal west of the Mississippi: *Provided*, That the amount herein required to be funded for the benefit of the said Cherokees in North Carolina and the amount required to be paid them shall be charged to the general Cherokee fund, under the treaty of New Echota, and shall be reimbursed therefrom."

II. And your orator avers that Congress, in the exercise of the discretion conferred on it by the said twelfth article, having concluded, and so provided by the said act of 29th July, 1848, that it was best for the members of the tribe who had chosen to remain in the State of North Carolina that the principal of the *per capita* money coming to them under the said twelfth article should not be paid to them, but should be held by your orator, and that your orator should pay them interest on the said money at the rate of 6 per cent. per annum from the 23d of May, 1836, to the date of said act, and annually thereafter, your orator avers that the effect of the said twelfth article and the said act of the 29th July, 1848, was to make your orator a trustee of the said money for the benefit of the said Indians, and to clothe your orator with unusual duties and responsibilities, in view of the helpless and dependent condition of those for whom the trust was established; and your orator avers that Congress, with a sense of the peculiar duties and responsibilities of your orator in the premises, and in further recognition of the said trust, declared by the third section of an act approved the 27th July, 1868, entitled "An act to transfer to the Department of the Interior certain powers and duties now exercised by the Secretary of the Treasury in connection with Indian affairs" (15 Stat., 228), "That hereafter the Secretary of the Interior shall cause the Commissioner of Indian Affairs to take the same supervisory charge of the Eastern or North Carolina Cherokees as of other tribes of Indians;" and, as a further recognition of the trust that had been devolved upon your orator as aforesaid, Congress, by an act approved 3d March, 1875 (18 Stat., 447), directed that the fund set apart for the said Indians by the said act of the 29th July, 1848, should be applied, under the direction of the Secretary of the Interior, to perfect the titles of lands which had been then recently awarded the said Indians by decree of the circuit court of the United States for the western district of North Carolina; to the payment of such costs of certain litigation as the said Secretary might deem properly chargeable to them; to purchasing and extinguishing the titles of any white persons within the general boundaries allotted to the said Indians by the said decree; and to the education, improvement, and civilization of the said Indians; and your orator avers that, in further execution of the said trust, Congress enacted the following provision as part of an act approved 15th August, 1876 (19 Stat., 197, 198):

"That the balance of the fund of the Eastern Band of Cherokee Indians, appropriated by the act of March third, eighteen hundred and seventy-five, shall, upon the first day of July, eighteen hundred and seventy-six, be placed to their credit upon the books of the Treasury Department, and shall bear interest at the rate of five per centum per annum; and the Secretary of the Interior is hereby authorized to use annually for agricultural implements and for educational purposes among said Indians so much of the principal of said fund as, with the interest annually accruing thereon, shall amount to six thousand dollars; and three hundred dollars of said sum shall be paid to the superintendent of common schools in North Carolina who shall have the supervision of the schools of the Cherokees of said State under the direction of the Commissioner of Indian Affairs," and the following provisions, as part of an act approved March 3, 1877 (19 Stat., 291, 292):

"The Secretary of the Interior may, at his discretion, use a portion of the money appropriated in the Indian appropriation act of fifteenth August, eighteen hundred and seventy-six, for the support of schools among the Eastern Band of Cherokee Indians, in aid of schools among said Cherokees residing in Tennessee and Georgia.

"For this amount, or so much thereof as may be necessary, to enable the Secretary of the Interior to employ counsel to defend suits now pending against the North Carolina Cherokees, one thousand dollars; said amount to be expended out of the funds in the United States Treasury belonging to said North Carolina Cherokees."

And your orator avers that other provisions of law equally confirmatory of the trust aforesaid will be hereinafter referred to.

III. And your orator avers that, after the making of the said treaty, considerable sums of money were from time to time paid to the defendant, William H. Thomas, as agent of the said Indians, by your orator, under former treaties and under acts of Congress, and that so much of the said money as belonged to those members of the tribes that had concluded to remain in the State of North Carolina was, to a large extent, allowed to remain in the hands of the defendant William H. Thomas, as agent, for the purpose of being invested for the said Indians in lands in the said

State; that Thomas did in fact buy a large quantity of land situated in the southwest corner of the said State, in Cherokee, Jackson, Graham, and Swain Counties, with the money thus intrusted to him, but had the same conveyed to himself without any reference in the conveyances to his relation of agent and trustee of the said Indians.

IV. And your orator avers that there were mutual accounts between the said Indians and their agent, Thomas, who carried on a large business in furnishing them with supplies of all sorts; that while these accounts remained still open the said Thomas became embarrassed in his circumstances; and it then came to the knowledge of the said Indians that the lands purchased for them by Thomas with their money had become, owing to the fact that the same were conveyed to Thomas, subject to the lien of three judgments held by the defendant, William Johnston, and amounting in the aggregate to a large sum of money, as will particularly appear hereafter; that Johnston sued out executions on the said judgments and levied the same and sold the said lands, he himself becoming the purchaser thereof, at prices much below their value, and receiving title from the sheriff or sheriffs; that afterwards the said Johnston, recognizing the equities of the said Indians, agreed with them that they might redeem the lands bought by him under the said judgments, and that the Indians made payments to him under this agreement amounting to a large sum of money.

V. And your orator avers that in this state of things Congress passed the act of the 15th July, 1870 (16 Stat., 362), empowering the said Indians, by the name and style of "The Eastern Band of the Cherokee Indians," to sue their present or any former agent in the district or circuit courts of the United States; that pursuant to said act the said Indians filed a bill inequity in the circuit court of the United States for the western district of North Carolina against William H. Thomas, William Johnston, and James W. Terrell; that at the May term, 1874, of the said circuit court the said cause and a suit at law, also brought under the said act of 1870 by the United States and the said Eastern Band of the Cherokee Indians against James W. Terrell, a former agent of the United States for the said Indians, and W. H. Thomas, William Johnston, A. J. Murray, and J. B. Allison, his sureties, together with all unsettled matters connected with said suits, "as well as any and all unsettled matters between any of said parties and any of the Cherokee Indians residing in North Carolina, growing out of any of the dealings between said Indians, or any of them, and William H. Thomas, acting as their agent or otherwise, especially in relation to their alleged indebtedness to him for services, supplies, etc., and his alleged indebtedness to them on account of the management, disposal, or investment of their funds in his hands as agent or otherwise; and touching all contracts in relation to lands, and for services rendered, or otherwise, for or with them, or otherwise; also all unsettled matters growing out of the agency of James W. Terrell as a disbursing agent of the Government, as well as all matters of controversy between the said Indians, or any of them, and William Johnston, defendant, touching the right to land purchased by him at execution sale as the property of William H. Thomas, as well as the contracts of sale between him and the said Indians" were referred to the arbitrament and decision of Rufus Barringer, John H. Dillard and Thomas Ruffin; that in October, 1874, the said arbitrators filed their award, dated 23d October, 1874, and that the same was made an order of court at the next ensuing November term of the said court.

VI. And your orator avers that the said arbitrators found that upon a statement of the accounts between the said Indians and their agent, Thomas, the former were indebted to the latter in the sum of \$18,250, but that this amount was subject to a credit of \$8,486, being the amount, with interest, that had been paid to the judgment creditor, Johnston, by the Indians towards redeeming their lands, and that the balance of \$9,764 was subject to a further credit of \$2,697.89, being the amount of what had been irregularly turned over by Terrell, as a disbursing agent of the Government, to Thomas, which amount, however, it became the duty of Thomas to apply to the balance of purchase-money due him as money belonging to the Indians, which he was authorized to receive as their attorney in fact, thus leaving \$7,066.11 as the actual debt of the Indians to Thomas at the date of the award; and the arbitrators awarded that upon the payment of this sum of \$7,066.11 by the Indians to the judgment creditor, Johnston, the Indians should have a perfect equity to have and demand within Qualla Boundary, a tract of land containing about 50,000 acres, the title to be made to them or to some trustee for them, and that until such conveyance should be made, the said Johnston, so soon as the said balance should be paid him, should himself stand seized as a naked trustee of said lands to the use of the said Indians; and the said arbitrators did, furthermore, find that the said agent, Thomas, had sold and conveyed certain tracts of land lying within the said Qualla Boundary to certain individuals of the said Eastern Band of Cherokees, and had contracted to sell certain tracts of land lying within said Qualla Boundary to certain other individuals of the

said band, and that the said arbitrators did award that upon the payment of the said sum of \$7,066.11 the said individual Indians should possess these several tracts as their separate property "with the quality of being inheritable, but without the power of alienation, except from one Indian to another, and then only with the assent of the council;" and the said arbitrators did further find that the said Thomas had sold and conveyed certain tracts of land not embraced by the Qualla Boundary tract to several individual Indians, and had contracted to sell certain other tracts also, outside said Qualla Boundary, to other individual Indians, and did further find that of the individuals last mentioned Ka-yu-kah (or Ground Squirrel) and James Taylor were entitled to deeds, and awarded that Thomas and Johnston should make the proper deeds to them and to the others when they should be entitled to receive conveyances under the several contracts between them and Thomas, all which will more fully and at large appear by reference to a copy of the award herewith filed and exhibited and marked Exhibit A, which your orator prays may be held and taken as part and parcel of this bill of complaint to the same extent as if set forth at length herein.

VII. And your orator avers that the said Indians, having paid the said William Johnston the sum of \$7,066.11, he, the said Johnston, and his wife, Lucinda M. Johnston, by an indenture dated the 9th October, 1876, conveyed the said Qualla Boundary tract to the said Indians by the name and style of "The Eastern Band of North Carolina Cherokee Indians," their heirs and successors, forever, "but without the power of alienation, except by and with the assent of their council and the approval of the President of the United States," a copy of which said deed is herewith filed and exhibited, marked Exhibit C.

VIII. And your orator avers that, after crediting the said judgments by the sums paid, and to be paid, by the Indians in discharge of the balance due by them to their agent, Thomas, there remained due on the said judgments the sum of \$18,335, with interest from the 25th October, 1874, until paid; that this balance was ascertained by the said arbitrators under a separate reference to them by William H. Thomas and William Johnston, who could not agree as to what was due on the judgments, copies of which said reference and award are herewith filed, and marked Exhibit B; that, in view of the fact that Johnston held sheriffs' deeds for various tracts of land purchased by him under executions on said judgments at much less than their fair value, and under circumstances well calculated to depreciate them and deter persons from bidding therefor, which tracts are not embraced in said award of 23d October, 1874, it was awarded under said separate reference that Johnston should hold the title to said lands as security only for the balance due on said judgments; and that James W. Terrell and Thomas D. Johnston should sell the said lands on the terms of one-fourth cash and the residue in one and two years, in equal instalments, with interest from the day of sale, and out of the proceeds pay the said balance of \$18,335.65, with interest and costs.

IX. And your orator avers that by the Indian appropriation act of 3d March, 1875 (18 Stat., 447), it was enacted as follows:

"That the fund set apart in the Treasury of the United States by virtue of the fourth and fifth sections of the act of Congress entitled 'An act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with the various Indian tribes, for the year ending June thirtieth, eighteen hundred and forty-nine, and for other purposes,' approved July twenty-ninth, eighteen hundred and forty-eight, shall be applied, under the direction of the Secretary of the Interior, for the use and benefit of the Eastern Band of the Cherokee Indians, to perfect the titles to their lands recently awarded to them by a decree of the circuit court of the United States for the western district of North Carolina; to the payment of such costs, charges, expenses, and liabilities attending their recent litigations in the said court as the Secretary of the Interior may determine to be properly chargeable to them; to purchase and extinguish the titles of any white person or persons within the general boundaries allotted to them by the said decree of said court; and for the education, improvement, and civilization of the said Indians."

That in supposed pursuance of the said act the said judgments were purchased with the fund therein mentioned for the sum and amount of \$19,245.53, being the said balance of \$18,335.65, with interest and taxed costs, and the said judgments were assigned to the Commissioner of Indian Affairs, in trust for the Eastern Band of Cherokee Indians in North Carolina; and your orator avers that the effect of this purchase and assignment was to place the whole band in the same relation to the said lands as William Johnston, the judgment creditor, had held, and to entitle them to enforce satisfaction of the judgments out of the said lands.

X. And your orator avers that Congress, afterwards, by an act entitled "An act to authorize the Commissioner of Indian Affairs to receive lands in payment of judgments to Eastern Band of Cherokee Indians," approved August 14, 1876 (19 Stat., 139), declared as follows:

"That the Commissioner of Indian Affairs be, and he is hereby, authorized and

empowered to collect and receive, in payment of the amount due on certain judgments in favor of William Johnston, and against William H. Thomas, now held by him in trust for the Eastern Band of Cherokee Indians of North Carolina, the lands mentioned and described in the award of Rufus Barringer, John H. Dillard, and Thomas Ruffin, as a board of arbitrators, under date of October twenty-third, eighteen hundred and seventy-four, upon which such judgments were a lien; such lands to be taken at their cash value, to be determined by an appraisal to be approved by the Secretary of the Interior, and conveyed to the Eastern Band of Cherokee Indians in fee simple: *Provided*, That if the lands above mentioned shall not be sufficient in value to pay off and discharge said judgment, the Commissioner is authorized to receive such other lands as the said Eastern Band of Indians may select, by and with the assent of the said Commissioner, to an amount sufficient to discharge the said judgment."

XI. And your orator avers that the effect of the said award of 23d October, 1874 (Exhibit A), and the payment to the judgment creditor, William Johnston, of the said sum of \$7,066.11, and the said conveyance by him and his wife, of the 9th October, 1876, to the Eastern Band of the North Carolina Cherokee Indians, wherein receipt for the said sum is acknowledged, was to extinguish at law the lien of the said judgments or the estate of the said Johnston as a purchaser under said judgments as to the Qualla Boundary tract, and to extinguish in equity said lien or estate as to all the other tracts of land mentioned in the said award; that the payment of the said sum was intended to operate and did operate as a complete satisfaction to the said Thomas of all liability of the said Indians, collectively, for lands purchased for them by the said Thomas, but that such payment did not extinguish the liability of the individual purchasers of lands from Thomas, mentioned in the award, who had not fully paid for the lands so purchased.

XII. And your orator avers that in applying the said act of 14th August, 1876, there was an entire failure to use even so much as ordinary precaution to protect the interests of the said Indians, and that, as a consequence, great discontent and dissatisfaction have been the results of proceedings which were set on foot for the purpose of securing confidence and repose among said Indians; that it was certainly the duty of those charged with receiving land in satisfaction of said judgments not to credit the same by the value of any lands held by individual Indians and not fully paid for—until each Indian had been applied to to know what was due on his land and whether he was ready to pay it, and until those representing the interests of Thomas had surrendered the evidence of indebtedment of such Indian; whereas your orator avers that such evidences of indebtedment have never been delivered up and are still held by those in charge of the interests of said Thomas, who is now *non compos mentis*, and that no statement has ever been made to show the actual amount due from each Indian to the said Thomas; and your orator avers that it is not surprising to find, as the result of so negligent a course of conduct, that some Indians are constantly demanding conveyances from your orator, insisting that they owed nothing to said Thomas at the time their lands were applied in satisfaction of the said judgments; and your orator avers that in taking the said lands of Indians who had purchased from said Thomas in satisfaction of said judgments the lands so taken were applied to the judgments without regard to the amounts that had been paid Thomas by the Indians on the lands purchased, thus to that extent, giving Thomas double satisfaction in each case for one and the same debt, and your orator avers that it has been pretended that what was owing Thomas by the Indians was considerably in excess of the value of the lands purchased, but your orator conceives that this is not probable, seeing that said Thomas or those charged with his interests would hardly have made a settlement so detrimental to those interests, and certainly it is not to be accepted as fact until said Thomas or those representing him have been compelled to produce the said evidences of debt and other data held by them, so that an account may be stated showing precisely what was due from each Indian; and your orator avers that although the said act of 1876 requires an appraisal of the lands received in discharge of such judgments to be approved by the Secretary of the Interior, a large part of the lands so received were not appraised, and it is charged, and believed to be true as charged, that such lands were taken at a valuation much beyond their cash value, that in some instances there was a total failure of title, and that in selecting said lands those representing the said Indians were forced to select without any opportunity to ascertain the character of the lands from which the selection was to be made; and your orator avers that so much dissatisfaction and discontent have grown out of the proceedings under the said act of 1876, and all parties directly concerned in applying said act have been so regardless of the ordinary rules of business and so reckless of the interests of the Indians that it is not strange that those charged with said interests have never allowed the said judgments to be entered satisfied, but have kept the same operative and alive, and that suspicions hang around the said pretended settlement which, it is believed, nothing short of a thorough investigation by a competent master, acting under an order of reference by this honorable court, can dispel.

XIII. And your orator avers that the pretended settlement under the act of 1876

was carried into effect by a deed of conveyance, dated 14th August, 1880, from William Johnston, Lucinda M. Johnston, W. L. Hilliard, guardian of W. H. Thomas, a lunatic, duly appointed under the laws of North Carolina, and James W. Terrell and Thomas D. Johnston, describing themselves as commissioners and as attorneys of W. H. Thomas, to the Commissioner of Indian Affairs and his successors in office as trustee for the Eastern Band of Cherokee Indians of North Carolina, a copy of which said deed is herewith exhibited, marked Exhibit D; and your orator avers that said deed was in substitution for a previous deed of conveyance, dated 9th October, 1876, from the said Johnston and wife, and the said Terrell and Thomas D. Johnston, to the Commissioner of Indian Affairs and his successors in office as trustee for the said Eastern Band of Cherokee Indians of North Carolina, a copy of which said deed is herewith filed and exhibited, marked Exhibit E; and your orator avers that the incumbent of the position of Commissioner of Indian Affairs at the time said deeds were made was the Hon. John Q. Smith, of the State of Ohio, but that the said Smith no longer fills the said position.

XIV. And your orator avers that, clothed as your orator is with a trust as to the *per capita* money set apart, as aforesaid, by the act of 29th July, 1848 (*supra*), for the benefit of the said Eastern Band of Cherokee Indians under the twelfth article of the treaty of New Echota of 29th December, 1835, a part of which said fund was used in purchasing the said judgments against said Thomas, it is a solemn treaty obligation of your orator to protect the said fund and to guaranty to the said Indians an honest payment thereof, whether in money or the equivalent of money in land, if the Indians so elect; that it is the duty of your orator as such trustee to use all legal means to compel the judgment debtor, Thomas, to give a fair equivalent for the balance due on the said judgments when purchased with the said fund, and that it would be a reproach to your orator to allow to stand a settlement made in the unjust, inequitable, careless, and suspicious way in which the so-called settlement under the act of 1876 was made; and that the lapse of time is not to operate against the said Indians nor against your orator in the exercise of sovereign rights under a treaty.

XV. And your orator avers that through criminal carelessness, not to say design, nearly all the title papers of the said Thomas, showing his titles to the lands sold the Indians, and which were produced before the arbitrators and directed by them to be recorded, were lost or destroyed without being put on record, to the great injury and inconvenience of the Indians, whose titles to the lands purchased have been adjudged valid by the said arbitrators, yet so it is that such validity can not be shown in an action at law in consequence of the loss or destruction of said title papers; and your orator avers that, in addition to the loss or destruction of said papers, the land records in the counties in which the said lands lie are in such a condition of confusion and disorder that it has been found impossible by an intelligent agent of your orator to make any use of them whatever; and your orator avers that the deed of conveyance of the Qualla Boundary tract, being to the Eastern Band of North Carolina Cherokee Indians, is perhaps inoperative and void for the want of a proper description of the grantees, and that the other deed to the Commissioner of Indian Affairs is deemed by some also invalid on a like ground; and your orator avers that this unfortunate condition of the titles of the said lands has encouraged a great number of lawless and abandoned people to enter thereon and establish themselves there, causing terror to the said Indians, and committing waste and destruction and otherwise doing irreparable damage to the said lands.

XVI. And your orator avers that it has been for a long time generally known that the titles of the said lands have been in the condition aforementioned, and that the opinion prevails that the said lands may be invaded and occupied and the Indian settlers driven therefrom with entire impunity, and your orator avers that the recent decision of the supreme court of North Carolina, that the said Indians can not plead or be impleaded in the courts of that State, makes their condition entirely helpless so far as the judicial authority of the State is concerned, and compels resort to the judicial authority of the United States for the justice and protection denied by the courts of the State.

XVII. And your orator avers that the said award of the 23d October, 1874, has not been duly carried out in other particulars than the failure of William H. Thomas and William Johnston to convey to the said Indians by a sufficient deed the legal title of the said Qualla boundary tract, and that it intimately concerns the repose and happiness of the said Indians that there should be a judicial scrutiny into the action which has been taken under the said award in every part and particular thereof.

XVIII. And your orator avers that, according to the last official report to your orator touching the said lands, the persons whose names are next hereinafter mentioned had entered upon the said Qualla Boundary tract, and respectively dispossessed and disseised the said Indians of large portions of the said tract; that is to say: Penn Kline, alias W. P. Hyde, David Johnson, George W. Gibson, Christian-berry Howell, Tabitha Tompkins, Thomas Mills, J. H. Mosely, A. H. Hayes, H. A. Keener, E. S. Keener, Berry Cooper, D. W. (or Bose) Love, J. B. Keener, John R.

Kimsey, H. S. Baker, Bartlett Dills, W. A. Enloe, Humphrey Childers, I. M. Hensley, M. C. Hensley, T. W. Keener, Eliza Keener, Albert S. Keener, H. P. Childers, Arminda Wilson, Nimrod Childers, Landon Tompkins, C. C. Martin, W. C. Martin, A. Keener, John M. Enloe, N. R. Kinsey, T. C. Childers, William H. Thomas, jr., Jackson Williams, John Enloe, Susannah E. Hyde, Cling Childers, Mary E. Hyde, W. H. Enloe, Ute Sherrell, William Cooper, Carroll Martin, George Sherrell, Uriah Cooper, Robert Burchfield, Joseph Keener, John Kimsey, Smith Baker, Blue Baker, Baker the elder, — Putnam, George Keener, Will Laney, Will Davis, — McNesia, — Winchester, Coleman Scea, James Edwards, Andrew Burchfield, Harrison Coleman, Richard Dills, Ramsey Gibson, Budd Johnson, Eliza Tompkins, Bill Moseley, Budd Parker.

XIX. And your orator avers that the names of the other trespassers and disseisors who have entered on the lands of said Indians lying outside Qualla boundary and dispossessed and disseised the rightful Indian owners thereof are as follows: Andrew Shields, I. V. Cooper, Reuben Carver, D. K. Blanton, A. B. Hyatt, Tyra Higdon, John Grant, James G. Brooks, Martin Parker, Isaac Lovinggood, Benjamin Killian, James Williamson, John Graves, John Dockery, Wm. Cline, N. O. Rabb, Gus Bradley, Dewitt Ghomley.

And your orator avers that there may be other trespassers and disseisors on the said lands; in which case your orator craves leave to make them parties to this bill of complaint so soon as they shall become known to your orator.

XX. And your orator avers that it is impossible for the said Indians, or for your orator, suing in their behalf, to maintain an action at law for the ouster and dispossession of the said trespassers and disseisors, on account of the said condition of the titles of the said lands, and that, as the guardian and protector of the said Indians touching all their rights and interests whatsoever, with all necessary power and authority to make effective the duties growing out of the said relations of guardian and protector, and as trustee of the *per capita* money funded for the benefit of the said Indians by virtue of the said act of the 29th July, 1848, under the twelfth article of the treaty of New Echota, your orator has no way of obtaining the redress called for by the wrongs and oppressions aforesaid, save by the aid and intervention of a court of equity, where such matters are properly cognizable.

Wherefore and to the end that the said lands may be conveyed and assured to the said Indians by proper deeds and conveyances, and that it may be referred to a master learned in the law to inquire and report particularly in what manner the said award of the 23d October, 1874, has been carried out, and what defaults, if any, exist in that behalf, and to inquire and report particularly as to the transaction by which it is claimed the said judgments were satisfied and discharged by the conveyance of lands, and as to whether the said transaction was conducted in accordance with the principles of law and equity and the legislation of Congress touching the same; and to inquire and report touching the individuals holding parts of the said lands adversely to the said Indians, and whether such individuals had any title or claim of title to the lands so held by them, and that the said Penn Kline, alias W. P. Hyde, David Johnson, Geo. W. Gibson, Christianberry Howell, Tabitha Tompkins, Thomas Mills, J. H. Mosely, A. H. Hayes, H. A. Keener, E. S. Keener, Berry Cooper, D. W. (or Bose) Love, J. B. Keener, John R. Kimsey, H. S. Baker, Bartlett Dills, W. A. Enloe, Humphrey Childers, I. M. Hensley, M. C. Hensley, T. W. Keener, Eliza Keener, Albert S. Keener, H. P. Childers, Arminda Wilson, Nimrod Childers, Landon Tompkins, C. C. Martin, W. C. Martin, A. Keener, John M. Enloe, N. R. Kinsey, T. C. Childers, Wm. H. Thomas, jr., Jackson Williams, John Enloe, Susannah E. Hyde, Cling Childers, Mary E. Hyde, W. H. Enloe, Ute Sherrell, Wm. Cooper, Carroll Martin, George Sherrell, Uriah Cooper, Robert Burchfield, Joseph Keener, John Kimsey, Smith Baker, Blue Baker, Baker the elder, — Putnam, George Keener, Will Laney, Will Davis, — McNesia, — Winchester, Coleman Scea, James Edwards, Andrew Burchfield, Harrison Coleman, Richard Dills, Ramsey Gibson, Budd Johnson, Eliza Tompkins, Bill Moseley, Budd Parker, Andrew Shields, I. V. Cooper, Reuben Carver, D. K. Blanton, A. B. Hyatt, Tyra Higdon, John Grant, James G. Brooks, Martin Parker, Isaac Lovinggood, Benjamin Killian, James Williamson, John Graves, John Dockery, Wm. Kline, N. O. Rabb, Gus Bradley, Dewitt Ghomley, may answer and say by what warrant or title they entered upon and now occupy the said lands, respectively, and that the said W. L. Hilliard, guardian of William H. Thomas, a lunatic, and the said William Johnston and James W. Terrell and Thomas D. Johnston and the said John Q. Smith may answer the foregoing as fully and particularly as though thereto interrogated, and that your orator may have such other or further relief as may be meet and apposite.

May it please your honors to grant your orator the writ of subpœna, and your orator shall ever pray, etc.

A. H. GARLAND,
Attorney-General.

WM. A. MAURY,
Assistant Attorney-General.

EXHIBIT B.

EXHIBIT A.

In the circuit court of the United States, western district of North Carolina. In Asheville.

THE EASTERN BAND OF THE CHEROKEE IN-	} In equity.
dians	
<i>against</i>	
WILLIAM H. THOMAS, WILLIAM JOHNSTON,	
and James W. Terrell.	

THE EASTERN BAND OF THE CHEROKEE IN-	} Suit at law on the bond of J. W. Ter-
dians	
<i>against</i>	
JAMES W. TERRELL, WILLIAM H. THOMAS,	rell as the disbursing agent of
William Johnston, A. J. Murray, and J. B.	plaintiffs.
Allison.	

Whereas at the May term, 1874, of said circuit court of the United States held at Asheville, before his honor R. P. Dick, judge, the parties to the above two causes entered into an agreement in writing to submit all matters of dispute and controversy between them, as specified and set forth in their said written agreement, to Rufus Barringer, John H. Dillard, and Thomas Ruffin, their award to be final and a rule of court, and said submission to go into effect upon the approval thereof by the said Hon. R. P. Dick, judge of said court, the Secretary of the Interior, the Commissioner of Indian Affairs, and the Department of Justice at Washington City; and whereas their said submission was approved by the said judge of the court and the said several officers at Washington City, as appears from their several indorsements on the said written submission, a copy of which is hereto attached, and to be referred to as a part of this award; and whereas, by virtue of said submission, the reference to the said arbitrators was to be deemed operative and fully authorized as soon as approved as aforesaid:

Now, therefore, we, the undersigned, Rufus Barringer, John H. Dillard, and Thomas Ruffin, having taken upon ourselves the burden of the reference aforesaid, and having heard and duly considered and weighed the several allegations of the said parties, the pleadings in the said two suits, and all the proofs, vouchers, and documents which have been given in evidence before us, and having heard the arguments and suggestions of counsel, do hereby make and publish this our award, in writing, of and concerning all and every the several matters as above referred to us, in the manner following; that is to say:

1. That William H. Thomas became and was the agent of the Eastern Band of the Cherokee Indians living in North Carolina, who are the plaintiffs in the above two causes, after the removal of their brethren west in the year 1838, and as such undertook to purchase, and did purchase, for them land, the amount, location, and boundary whereof will hereinafter be fully described, to be paid for with money or moneys coming to them from the United States under treaties with and the laws of the said United States.

2. That the said William H. Thomas, in pursuance of his said agency and trust reposed in him, did from time to time, and from various persons, purchase lands for the plaintiffs as a tribe and community, and settlement thereon, and carved up the same into towns, which said purchases are included in and make a large tract, situated on Soco Creek and Ocona Lufta River and their tributaries, know as the Qnalla Boundary, and bounded as follows, to wit: Beginning at a stump near the spring on Jackson County line at the head of Jonathan's Creek, where the Soco road crosses the mountain; thence in a northerly direction with the said county-line to the ridge which divides the waters of the Ravin's Fork from Bradley or west fork of Ocona Lufta River; thence with the watershed of that ridge to the line of Widow Hugh's; thence eastwardly with her line, crossing Ravin's Fork; thence down, and with her lines and the lines of Welsey M. Enloe, to the Ocona Lufta River; thence down with the meanders of said river to the southern boundary of Samuel Monteith; thence across said river and with said Monteith's line to his southwest corner; thence with the lines of an entry made by W. H. Thomas and other lines of said Thomas, keeping on his outside lines to the dividing-ridge between the waters of Adam's Creek and Newton's Mill Creek, so running said line, as to include all Indians living on the headwaters of said Adam's Creek; thence in a southerly direction, keeping on the watershed of said ridge to the line of Sim Sherrell; thence with his line to Ocona Lufta River, the last two lines being run so as to include all the In-

dian settlements on the east side of Newton's Mill Creek; thence with and across the said Oona Lufta River to the upper boundary of J. M. Bird; thence with this line to the corner of the first tract of what is known as the State surveys above the said Bird; thence up said river with the lines of said State surveys so as to include one tier of old surveyed tracts bordering on said river, and striking said river below Ute Sherrell's, excluding the tract now occupied by J. A. Gibbs, and also some entries known as Thomas's entries; thence up and with the meanders of said river to a tract of land occupied by an Indian named Ah-ma-cha-ma; thence with the line of that tract, and including the same, to the old line of Scroop Enloe, or near it, but so as to exclude the tract now occupied by Mason Reckley; thence with the line of the tract so occupied by Reckley, crossing the Soco Creek below his house, to the old line of said Scroop Enloe; thence with Enloe's line to the line of Thomas's mill-tract; thence with the line of said mill-tract and with the line of an entry known as Thomas's five-hundred-acre entry, and leaving the same outside, to the line of J. B. Sherrell; thence with his line to the line of a tract conveyed to Flying Squirrel by J. W. King; thence with the line of that tract, and so run as to include it, to the line of the Thompson Carter tract; thence with that tract, and so run as to include it, to the top of the ridge which makes the watershed between Soco Creek and Shoal Creek; thence with the said watershed to the south corner of the Cathcart survey; thence with the line of that survey to the beginning, at the head of Jonathan's Creek.

3. That within the said Qualla Boundary so as aforesaid purchased for the tribe as a community, the said Thomas, at divers times, sold and conveyed by deed several tracts of land to the following individual Indians, to wit: To Enola (or Black Fox), 40 acres; to One-tah, 33 acres; to Standing Wolf and children, 286 acres; to Catalaska, three tracts, making together 110 acres; to Charlie Hornbuckle's heirs, 100 acres; to Sa-lo-lu-netah (or Young Squirrel), 53 acres; to Nellie Johnson, 200 acres; and to Jinney Reed, 200 acres, and received from them, respectively, the purchase-money; the locations and boundaries of which said tracts fully appear from the accompanying deeds to the said parties from said Thomas; and also that the said Thomas, at divers times, contracted in writing to sell several other tracts within said Qualla Boundary to the following individual Indians, to wit: To Chu-lo-gu-lah (or Cloud), 50 acres; Wilson Occummuh, two tracts, one of 20 acres and the other known as the Caynatago tract; the heirs of Jeff. Hornbuckle, 200 acres; to Sawnooka, the lands surveyed by Dills, being a part of the Holland's old field; to Ben Quain, 50 acres, where he lives; to the heirs of Long Blanket, the place where they live; to the heirs of Little Witch, the place where they live; to Wilson Wolf, the mill-tract purchased of Abraham Mingus; to Ta-a-kah, the tract known as the Thompson place; to Wilson Reed, 125 acres, surveyed to him by Terrell; to Standing Water, the place where he now lives; to Ta-ya-hah, a part of the Holland's old field; to Tah-gul-se-nah, the place now occupied by him; and received from them, respectively, in whole or in part, the purchase-money, the location of which said tracts, so contracted to be sold, will appear by the several accompanying titles, bonds, and other memoranda from said Thomas to said Indians. We do, therefore, award that the general boundary, known as the Qualla Boundary, and above described, belongs to, and shall be held by, the Eastern Band of Cherokee Indians living in the State of North Carolina, as a tribe or community, and whether living at this time at Qualla or elsewhere in the State; and that the individual Indians above named as holding under said Thomas, either by deed or contract, shall hold and possess their several tracts as their separate property, with the quality of being inheritable, but without the power of alienation except from one Indian to another, and then only with the assent of their council. All the above, however, to be subject to the payment of a sum of money to William Johnston, as hereinafter provided.

4. We find that the wife and children of an Indian named Little John have a deed to a tract of land situated on the south side of Tuckasegee River, and outside of said Qualla Boundary, for 173 acres, on which they now live, and we award that the same is a good title as against all parties and privies to these suits. We further find that the said wife and children of the said Little John have a title-bond from said Wm. H. Thomas for 100 acres of land, to be curved off from a tract of land adjoining the lands last spoken of, so as to embrace 100 acres of land on both sides of the Skeekee's Branch, and that they have paid for the same in full. Also that the heirs of Will gees-ka have a title-bond from Wm. H. Thomas for the tract of land on which they live, adjoining the above lands of the Little John's and on the south side of said Tuckasegee River, for which they have paid in full. We do, therefore, award that the said defendants, Thomas and Johnson, do lay off and convey to the said wife and children of the said Little John the said 100 acres to embrace both sides of said Skeekee's Branch; and also that they convey unto the said heirs of Will-gees-ka the land on which they live.

5. We find that at one time it was contemplated between said Thomas and the Indians residing in the region described in the pleadings as Cheoih to make a simi-

lar purchase of a general boundary of land in that section of the State, and that there was a written agreement to that effect between them; but afterward the Indians declined to furnish, and did not furnish, the funds necessary to make such purchase; and we therefore award that the said agreement between them and Thomas to make such purchase was abandoned; and that in lieu thereof the following individual Indians made separate purchases from Thomas and others, and have deeds or other sufficient title therefor, to wit:

Sakah, 100 acres in district No. 9, section 589.
 Corn-silk, 100 acres in district No. 9, section 347.
 Corn-silk, 100 acres in district No. 10, section 374.
 Chick-a-lilla, 100 acres in district No. 9, section 363.
 Chick-a-lilla, 48 acres in district No. 9, adjoining section 363.
 Walla-na-kah, 100 acres in district No. 10, section 552.
 Ches-que-ne-tah (or Young Bird), son of Ty-al-ta, 100 acres in district No. 9, section 364.

Tom Big-meat, 100 acres in district No. 9, section 359.
 Tom Big-meat, 90½ acres in district No. 9, section 360.
 Con-na-see-nah, 100 acres in district No. 10, section 386.
 And these having all paid the purchase-money in full, we do award that they hold and have title in fee as against said Thomas and Johnston, and all other parties and privies to these suits.

We find further that the following Indians and persons of Indian blood have written contracts for title to lands in Cheoih from Wm. H. Thomas, and are entitled to specific execution thereof, they having paid the purchase-money in full therefor, to wit:

Ka-yu-kah (or Ground Squirrel), for 288 acres in district No. 10, section No. 23, Cherokee County.

James Taylor, district No. 7, in Cherokee County, Nos. 19, 21, and 27.
 That the following have contracts in writing for the purchase of lands, and are entitled to specific performance thereof whenever they shall make full payments of the purchase-money, to wit:

Dick-a-gees-ku's heirs, for 100 acres in district No. 9, section 367.
 Oo-tal-ka-nah, 100 acres in district No. 9, section 373.
 Chin-a-que (or John Owl), the land whereon he lived in 1855 in Cherokee County, excepting all mineral interests.
 Too-way-a-llah, part of No. 12, district No. 10.
 Corn-silk, 100 acres in district No. 9, section 588.
 Tracking Wolf, district No. 9, section 404.
 Richard Henson and others, and their heirs, 210 acres in district No. 5, section 11.
 Richard Henson, 157 acres in district No. 5, section 14, with a bounty-claim of 2,700 acres.

Sal-ka-nah and others, 80 acres in district No. 6.
 Tes-a-tees-kah, 100 acres in district No. 9.
 George Oo-yah-ste-ah, district No. 9, section 365.
 Cah-nah-a-to-go and others, district No. 9, section 405.
 Cohe-lokah, 120 acres in district No. 9, section 93.
 Too-nah-lu-yah, Chees-que-ne-tah, Te-tal-ka-nah, no district or section given.

We do, therefore, award that Ka-yu-kah (or Ground Squirrel) and James Taylor have a perfect equitable title in fee to their said sections of land, and that W. H. Thomas and William Johnston do execute deeds to them severally therefor; and as to all the others above mentioned, we award that they have respectively an equity to have title, and that the same be made to them by the said Thomas and Johnston upon the payment of the purchase-money still due from them; and the said Thomas, or Johnston, as the case may be, shall have a right, in default of such payment of the purchase-money, to enforce the same by sale of their lands, respectively, according to law.

6. We find that in the course of the agency and trusteeship of the defendant Thomas for the plaintiffs he received, in the way of payments by the Government, contributions from individual Indians, and from sales of lands, within the said common boundary at Qualla, to individual Indians, large sums of money; that, on the other hand, by reason of the purchase for them of their lands, by his services rendered them in securing their claims, and by his furnishing them, through a long series of years, with clothing, food, farming tools, and other necessary supplies, they became largely indebted to him; that after adjusting all claims of every kind and description between them, except as hereinafter mentioned, we find that the said Indians owe the said Thomas a balance toward the purchase-money of the said Qualla Boundary of \$18,250; that after the purchase of the said lands by the defendant Johnston, under his executions against the defendant Thomas, the plaintiffs, in pursuance of a contract made with the said Johnston, for the redemption of said lands, on the 29th day of September, 1869, paid to him, the said Johnston, the sum of \$6,500 which said payment we award that the said Johnston shall apply as a credit on his

said judgments against Thomas as money paid by the plaintiffs toward the balance above stated as due from them to Thomas; that the said sum of \$6,500, with interest to this day, amounts to the sum of \$8,486, thus reducing said balance due Thomas to the sum of \$9,764.

7. We find, in the suit at law on the bond of Terrell and his sureties, that the said defendant Terrell paid over to the said defendant Thomas, his bondsman, the sum of \$2,478, which is sought to be recovered in said suit on his bond, relying on him to pay it out to those entitled; and we further find that though such payment to Thomas was not in strict compliance with the conditions of his bond, yet this same being paid to Thomas, to whom the plaintiffs were owing a balance of purchase-money for their lands, and who then had a power of attorney from the plaintiffs authorizing him to receive the same and apply it toward the payment of said purchase-money for their lands, we do therefore award that the said sum, with its interest, this day making \$2,697.89, be deducted from the above balance of \$9,764, thus reducing it to the sum of \$7,066.11; and upon the payment of this last-mentioned sum, to wit, the sum of \$7,066.11, with its interest from this date at the rate of six per cent. per annum to the said defendant Johnston, and by him to be entered as a credit on his said judgments against Thomas, we do further award that the said plaintiffs shall have a perfect equity to demand and have of him, the said Johnston, a conveyance of the legal title to all the lands embraced within the said Qualla Boundary, the same to be made to them, or to some trustee for them; and until such conveyance be made, the said Johnston, so soon as said balance is paid him, shall, himself, stand seized as a naked trustee of said lands to the use of said plaintiffs; and the said sum of \$2,697.89, so sued for as aforesaid, in the action at law, being applied as above set forth on the said balance due for the purchase-money, we do therefore further award that the plaintiffs do recover in the said suit at law the penalty of said Terrell's bond, to be discharged on the payment of a penny and the costs of that action, to be taxed by the clerk.

8. Wishing to secure repose of title to the parties and to end litigation between them, we have taken into consideration all accounts, claims, and demands between the said plaintiffs as a tribe, and each and every member of the tribe, wherever residing in the State of North Carolina, and W. H. Thomas and William Johnston, and either of them, and we do hereby award that all such accounts, claims, and demands are to be treated as concluded and adjusted between them, and in no way collectable and enforceable, save and except as is hereinbefore provided in relation to contracts for sales of land, and save and except the matters of controversy between the members of the Raper family in regard to their reservation-money. This latter being already the subject of litigation in our State courts, we have not considered, but leave the same to be settled in said State courts.

9. We find that William H. Thomas purchased the Cathcart survey of 33,000 acres, and other adjoining tracts and entries, out of part of which the said Qualla Boundary is composed, and that he extinguished the titles of all whites inside of said boundary, with the single exception of that one of Ute Sherrell, and that but few of his title-papers have been registered, and but few of his deeds to, and his written contracts of sale with, said Indians, whether at Qualla or elsewhere, have been registered. We do therefore award that all of said deeds to Thomas, under which the said Indians claim, and all his deeds and written contracts of sale to them or any of them, shall be registered in the proper offices of the State; and to the end that this may be properly attended to by some competent person, we do award that all such deeds and contracts be delivered to W. R. Rollins, one of plaintiffs' agents, for registration.

10. In considering the compensation due to the defendant Thomas, as agent of the plaintiffs, we have estimated his fees and commissions only on the moneys heretofore actually paid to the Indians. On these amounts we award that said Thomas shall claim no further compensation, either directly from the Indians or indirectly through the Government. But we further find that by a special contract of November 25, 1860, the said Thomas is entitled to compensation of ten per cent. on all moneys said Indians may receive from lands sold for their benefit west of the Mississippi, mainly secured through his efforts, and which contract it is not intended to impair. We therefore award that the said Thomas be allowed said rate of ten per cent. on all moneys said Indians may hereafter receive from said western land-fund, to be paid when the same is actually realized by the said Indians, and not otherwise.

11. The costs of the suit at law having been hereinbefore disposed of, we award that all the other costs be taxed in the equity case, and be paid one-half by the plaintiffs and the other half by the defendants, W. H. Thomas and William Johnston. We leave the allowance to the arbitrators, and the manner of its payment to be fixed and provided for by the judge.

All of which is respectfully submitted, under our hands and seals, this 23d day of October, 1874.

(Signed)

RUFUS BARRINGER.	[SEAL.]
JOHN H. DILLARD.	[SEAL.]
T. RUFFIN.	[SEAL.]

EXHIBIT B.

Whereas in the course of investigation of the matters in controversy between the Eastern Band of Cherokees against Wm. H. Thomas and Wm. Johnston, referred to Rufus Barringer, Thomas Ruffin, and John H. Dillard, under an order of the circuit court of the United States for the western district of North Carolina, it was agreed by and between the said Wm. H. Thomas and Wm. Johnston to refer certain matters of dispute between them to the final arbitrament and award of the same arbitrators; and whereas the said Thomas and Johnston executed a written submission specifying the points of difference between them, which said submission is hereunto annexed and to be referred to as connected with this award. Now, therefore, we, the undersigned arbitrators, having undertaken the burden of said reference, and having heard and weighed the allegations of the parties and all the evidence adduced, as well as that of the parties themselves as the records and documentary proofs, do determine and award of and concerning the matters referred to us in manner and form following, that is to say:

We award that there is due to Wm. Johnston from Wm. H. Thomas three judgments, as follows:

Judgment in Buncombe superior court, \$13,198.40, and interest, from 15th Oct., 1858, on \$11,215.48 to 14th Sept., 1874, 15 years 11 months...	\$23, 292. 25
Judgment in Buncombe superior court for \$7,616.66, with interest from 10th June, 1867.....	9, 791. 66
Balance of R. B. Johnston's judgment, \$417.31 and interest	803. 20
	33, 887. 11

and we find that said aggregate of the three judgments are to be credited with \$6,500, with interest thereon since it was paid to Wm. Johnston, making \$8,486, and also by the sum of \$7,066.11, awarded as due from the Eastern Band of Cherokees and directed to be paid to him with interest; and we find that said sums being credited there will remain a balance due on said judgments in favor of Wm. Johnston against Wm. H. Thomas, eighteen thousand three hundred and thirty-five dollars and sixty-five cents (\$18,335.65), and we do award that the said sum of \$18,335.65 is the true amount of the indebtedness of Wm. H. Thomas to Wm. Johnston, which he is entitled to collect with interest until paid, together with the court costs taxed in the said three judgments.

(2) We award that Wm. H. Thomas delivers back to Wm. Johnston the road certificate for \$620, and that Wm. Johnston surrender to Wm. H. Thomas the four bonds for \$1,250 each, he holds on him, and thereupon that the said Wm. H. Thomas reconvey to said Johnston the mineral lands which constituted the consideration of said bonds.

(3) As to the \$18,335.65 awarded above as being the balance of indebtedness from Wm. H. Thomas to Wm. Johnston, we find that said William Johnston holds sheriff's deeds of Jackson and other counties for various tracts of lands sold as the property of said Thomas, and not embraced in the lands held by him in trust for the Indians, under executions issued on the three judgments hereinbefore described, and we find that the said lands were bought by the said Johnston at greatly less than their fair value by reason of clouds on the title and forbiddals at the sales, and therefore we do award that the several sheriff's deeds shall be held as a security merely for the balance aforesaid as due on said judgments and the costs taxed or taxable in each, and we do award that James M. Terrell and Thomas D. Johnston shall make sales of the lands mentioned in the said sheriff's deeds, other than those tracts awarded to belong to the Cherokee Indians as a tribe or individually, by an award on file in the suit in equity of the Eastern Band of Cherokees against Wm. H. Thomas and Wm. Johnston, pending in the circuit court of the United States at Asheville, or so much thereof as may be sufficient, on the terms one-fourth in cash and the balance in one and two years, in equal installments, with interest from the day of sale, and out of the proceeds to pay and satisfy the said balance of \$18,335.65, with its interest and costs as aforesaid; and we do award that after said sum and interest and costs are paid in manner aforesaid, that William Johnston do reconvey all that remains unsold unto the said Wm. H. Thomas and his heirs; and in cases where any of the lands included in said sheriff's deeds are in the possession of persons under title-bonds of the said Thomas, and they are owing the purchase-money or any part thereof, the same not being Indian lands forbidden to be sold in said award, filed in the court of equity aforesaid, we award that said Johnston may demand and receive the money or enforce a sale of the land through a decree for specific performance, in either instance applying the sum received in payment of his said judgments.

We award that Wm. Johnston shall account for any rents received, deducting therefrom the taxes by him paid; and if there may be an excess of the rents such

shall be as a payment on the judgments, but if the taxes paid shall exceed the rents then such excess of taxes we award shall be an addition, to that extent, to the debt herein awarded to said Johnston and to be paid by sales as provided herein for the judgments.

In making such sales as herein awarded, if the commissioners shall be of opinion that any sales, made by said Johnston are for a fair price, we award that he may and shall, according to their discretion, validate the same and not resell.

We award that in selling or confirming sales, as herein awarded, the said Wm Johnston shall execute titles on the request of said commissioners.

We award that we are entitled to receive for our investigation of the matters embraced in this award the sum of (100) one hundred dollars each, to be paid one-half by Thomas and one-half by Johnston, and if not so paid prior to the sale of any of the lands referred to then to be paid by the commissioners out of the first monies received, charging to each of said parties his half.

In witness we hereunto set our hands and seals the 23rd October, 1874.

RUFUS BARRINGER. [SEAL.]
JOHN H. DILLARD. [SEAL.]
T. RUFFIN. [SEAL.]

Whereas the Eastern Band of Cherokees brought suit in the court of equity in the circuit court of the United States in the western district of North Carolina, at Asheville, against William H. Thomas, William Johnston, and J. W. Terrell, and a suit in the names of the United States against the same parties and J. B. Allison and A. J. Murry on the law side of said court, to recover the sum of twenty-five thousand dollars, the penalty of the official bond of said J. W. Terrell, as agent of the Government for disbursements of certain sums to said Indians;

And whereas the said suits and all other unsettled matters between said parties or any of them, and between any Indians residing in North Carolina, and any of said parties defendant, have been referred to the arbitrament and award of Gen. Rufus Barringer, Judge Thomas Ruffin, and John H. Dillard, esq., who have the same under consideration;

And whereas some difference of opinion exists between the defendants William H. Thomas and William Johnston as to the amount of indebtedness of the former to the latter, as to the land purchased by the said Johnston at execution sales as the property of the said Thomas, and as to the right of said Thomas to redeem the same:

Now it is agreed by and between the said William H. Thomas and William Johnston to refer to the arbitrament and award of the said Rufus Barringer, Thomas Ruffin, and John H. Dillard, all matters of difference between them, with full power to decide and award between them according to the equity of the case, they being the judges thereof, and we the said parties will abide the same.

Witness our hands and seals, Sept. 11th, 1874.

WM. H. THOMAS. [SEAL.]
W. JOHNSTON. [SEAL.]

Attest:

W. P. WELCH.

It is understood that a reasonable compensation shall be paid to the referees above mentioned to be paid equally by each.

W. JOHNSTON.
WM. H. THOMAS.

Attest:

W. P. WELCH.

I, N. W. Woodfin, with whom the award between William Johnston and Wm. H. Thomas was deposited for safe keeping by the arbitrators, Rufus Barringer, Thomas Ruffin, and John H. Dillard, certify that the foregoing is a true copy thereof.

Nov. 24th, 1874.

N. W. WOODFIN.

EXHIBIT C.

EXHIBIT C.

This indenture, made this 9th day of October, 1876, between William Johnston and wife, Lucinda M. Johnston, of the county of Buncombe, State of North Carolina, of the first part, and the Eastern Band of North Carolina Cherokee Indians of the second part, witnesseth: That, whereas, at the November term, 1874, of the circuit

court of the United States for the western district of North Carolina, the case of the Eastern Band of the Cherokee Indians against Wm. H. Thomas, William Johnston, and James W. Terrill in equity, and the case of the United States and the Eastern Band of Cherokee Indians *vs.* James W. Terrill *et al.*, came on to be finally heard together upon the award of Rufus Barringer, John H. Dillard, and T. Ruffin, the arbitrators duly appointed at the May term, 1874, of said court, to hear and determine the matters in controversy between said parties, and which award has been rendered to the court, and states, among other things:

1st. That William H. Thomas became and was the agent of the Eastern Band of the Cherokee Indians living in North Carolina, who are the plaintiffs in the above two causes, after the removal of their brethren west in the year 1838, and as such undertook to purchase, and did purchase, for them land, the amount, location, and boundary whereof will hereinafter be fully described, to be paid for with money or moneys coming to them from the United States under treaties with and the laws of the said United States.

2nd. That the said William H. Thomas, in pursuance of his said agency and trust reposed in him, did, from time to time, and from various persons, purchase lands for the plaintiffs as a tribe and community and settlement thereon, and carved up the same into towns, which said purchases are included in and make a large tract situated on Soco Creek and Ocona Lufta River and their tributaries, known as the Qualla Boundary, and bounded as follows, to wit: Beginning at a stump near the spring on Jackson County line, at the head of Jonathan's Creek, where the Soco road crosses the mountain; thence in a northerly direction with the said county line to the ridge which divides the waters of the Ravin's Fork from Bradley, or west fork of Ocona Lufta River; thence with the water-shed of that ridge to the line of Widow Hugh's; thence eastwardly, with her line, crossing Ravin's Fork; thence down, and with her lines and the lines of Wesley M. Enloe, to the Ocona Lufta River; thence down with the meanders of said river to the southern boundary of Samuel Monteith; thence across said river, and with said Monteith's line, to his southwest corner; thence with the lines of an entry made by W. H. Thomas, and other lines of said Thomas, keeping on his outside lines to the dividing ridge between the waters of Adam's Creek and Newton's Mill Creek, so running said line as to include all the Indians living on the headwaters of said Adam's Creek; thence in a southerly direction, keeping on the water-shed of said ridge, to the line of Sim Sherrell; thence, with his line, to Ocona Lufta River; the last two lines being run so as to include all the Indian settlements on the east side of Newton's Mill Creek; thence with and across the said Ocona Lufta River, to the upper boundary of J. M. Bird; thence, with his line, to the corner of the first tract of what is known as the State surveys above the said Bird; thence up said river, with the lines of said State surveys so as to include one tier of old surveyed tracts bordering on said river, and striking said river below Ute Sherrell's, excluding the tract now occupied by J. A. Gibbs, and also known as Thomas's entries; thence up, and with the meanders of said river, to a tract of land occupied by an Indian named Ah-ma-cha-ma; thence, with the line of that tract, and including the same, to the old line of Scroop Enloe, or near it, but so as to exclude the tract now occupied by Mason Reckley; thence, with the line of the tract so occupied by Reckley, crossing the Soco Creek below his house, to the old line of said Scroop Enloe; thence, with Enloe's line, to the line of Thomas's mill tract; thence, with the line of said mill tract and with the line of an entry known as Thomas's five hundred acre entry, and leaving the same outside, to the line of J. B. Sherrell's; thence, with his line, to the line of a tract conveyed to Flying Squirrel by J. W. King; thence, with the line of that tract, and so run as to include it, to the line of the Thompson Carter tract; thence with that tract, and so run as to include it, to the top of the ridge which makes the water-shed between Soco Creek and Shoal Creek; thence, with the said water-shed, to the south corner of the Cathcart survey; thence, with the line of that survey to the beginning at the head of Jonathan's Creek.

3d. We do, therefore, award that the general boundary, known as the Qualla Boundary, and above described, belongs to, and shall be held by the Eastern Band of Cherokee Indians, living in the State of North Carolina, as a tribe or community, and whether living at this time at Qualla or elsewhere in the State; and that the individual Indians above named as holding under said Thomas, either by deed or contract, shall hold and possess their several tracts as their separate property, with the quality of being inheritable, but without the power of alienation except from one Indian to another, and then only with the assent of their council. All the above, however, to be subject to the payment of a sum of money to William Johnston as hereinafter provided.

6th. We find that in the course of the agency and trusteeship of the defendant Thomas for the plaintiffs he received, in the way of payments by the Government, contributions from individual Indians, and from sales of lands, within the said common boundary at Qualla to individual Indians large sums of money; that on the

other hand, by reason of the purchase for them of their lands, by his services rendered them in securing their claims, and by his furnishing them, through a long series of years, with clothing, food, farming tools, and other necessary supplies, they became largely indebted to him; that after adjusting all claims of every kind and description between them, except as hereinafter mentioned, we find that the said Indians owe the said Thomas a balance towards the purchase money of the said Qualla Boundary of \$18,250; that after the purchase of the said lands by the defendant Johnston, under his execution against the defendant Thomas, the plaintiffs in pursuance of a contract made with the said Johnston for the redemption of said lands on the 29th day of September, 1869, paid to him the said Johnston, the sum of \$6,500, which said payment we award that the said Johnston shall apply as a credit on his said judgments against Thomas as money paid by the plaintiffs toward the balance above stated as due from them to Thomas; that the said sum of \$6,500 with interest to this day amounts to the sum of \$8,486, thus reducing said balance due Thomas to the sum of \$9,764.

7th. We find, in the suit at law on the bond of Terrell and his sureties, that the said defendant Terrell paid over to the said defendant Thomas, his bondsman, the sum of \$2,478, which is sought to be recovered in said suit on his bond, relying on him to pay it out to those entitled; and we further find that though such payment to Thomas was not in strict compliance with the conditions of his bond, yet this sum being paid to Thomas to whom the plaintiffs authorizing him to receive the same and apply it toward the payment of said purchase money for their lands, we do, therefore, award that the said sum with its interest, this day making \$2,697.89, be deducted from the above balance of \$9,764, thus reducing it to the sum of \$7,066.11; and upon the payment of this last-mentioned sum, to wit, the sum of \$7,066.11 with its interest from this date at the rate of six per cent per annum, to the said defendant Johnston, and by him to be entered as a credit on his said judgments against Thomas, we do further award that the said plaintiffs shall have a perfect equity to demand and have of him, the said Johnston, a conveyance of the legal title to all the lands embraced within their said Qualla Boundary, the same to be made to them or to some trustee for them; and until such conveyance be made the said Johnston, so soon as said balance is paid him, shall himself stand seized as a naked trustee of said lands to the use of said plaintiffs.

And whereas, upon such final hearing, it was ordered and decreed by the court that the "award of said arbitrators be made an order of this court, and that the same be observed and performed by all the parties thereto according to the tenor and the meaning thereof:" Now this indenture witnesseth, that the said party of the first part, in consideration of the aforesaid sum of seven thousand and sixty dollars and eleven cents, awarded by said arbitrators, and to him in hand paid by the Eastern Band of North Carolina Cherokee Indians at and before the enrolling and delivery of these presents, the receipt and payment whereof he doth hereby acknowledge, hath granted, bargained, sold, released, and confirmed, and by these presents, in pursuance of the said order of court, and by force and virtue thereof, doth grant, bargain, sell, release, and confirm unto the said party of the second part, their heirs and successors, all that certain piece and parcel of land situate, lying, and being in the State aforesaid, and bounded and described as follows, to wit:

[The elaborate description of the property conveyed is omitted as unnecessary for the purposes of the bill.]

For a more full and perfect description of which tract of land reference is here made to the field-notes of the survey of the same, on file in the General Land Office, or a copy of the same on file in the Office of Indian Affairs, Washington, D. C., marked L 236 (1876), together with all and singular the hereditaments and appurtenances thereunto belonging or in any wise appertaining, and the reversing and remainders, rents, issues, and profits thereof. To have and to hold the said above-described premises with the appurtenances thereunto belonging unto the said Eastern Band of North Carolina Cherokee Indians, their heirs and successors, forever. But without the power of alienation, except by and with the assent of their council, and the approval of the President of the United States.

This deed is executed and delivered in pursuance of the award and decree of the court in above-mentioned case of "Eastern Band of Cherokee Indians vs. William H. Thomas *et al.*," and is intended to convey to said "Eastern Band of Cherokees" the interest acquired by said William Johnston in and to the above-described lands, under deed of conveyance made to him by the sheriff of Jackson, in June, 1869, by virtue of sales of said lands made in pursuance of executions in the hand of said sheriff, issued on judgments in favor of said Johnston against William H. Thomas, and no further.

In witness whereof, the said parties of the first part have hereunto set their hands and seals this 9th day of October, 1876.

WM. JOHNSTON. [SEAL.]
L. M. JOHNSTON. [SEAL.]

In probate court.

BUNCOMBE COUNTY:

Be it known that on this the 9th day of October, 1876, before the the undersigned, judge of probate in and for said county of Buncombe, personally came William Johnston and wife, Lucindia M., the parties described in the foregoing deed of conveyance to the Eastern Band of Cherokee Indians, and each duly acknowledged the execution thereof for the purposes therein mentioned; and thereupon the said Lucinda M. Johnston being by me privately examined, separately and apart from the said husband, touching her free consent in the execution of said deed, doth declare upon such her examination that she executed the same freely, voluntarily, and of her own accord, without any fear, force, or undue influence on the part of her said husband, or any one else; and that she doth still voluntarily assent thereto. Therefore let said deed and this certificate be registered.

[SEAL.]

J. E. REED,
Judge of Probate.

STATE OF NORTH CAROLINA, *Jackson County:*

I, A. M. Parker, probate judge of Jackson County, do adjudge from the certificate of J. E. Reed, probate judge of Buncombe County, to be correct. Therefore let the deed, with the certificate, be registered this June 30, 1880.

A. M. PARKER,
Probate Judge of Jackson County, N. C.

Regs. fee, \$10.00.
Probate judge, .25.

OFFICE OF REGISTER OF DEEDS, *June 30, 1880.*STATE OF NORTH CAROLINA, *Jackson County:*

The within deed was this day duly registered in Book G, beginning on page 334 and ending on page 353.

A. J. LONG,
Register of Deeds.

In the probate court.

SWAIN COUNTY:

It is adjudged that the certificate of J. E. Reed, probate judge of Buncombe County, is correct and genuine.

Therefore let the deed with certificates be registered in Swain County.

This July 3rd, 1880.

SAM. B. GIBSON,
Probate Judge.

Office of register of deeds of Swain County, North Carolina.

I, T. H. Parrish, register of deeds of said county, do hereby certify that the foregoing and within deed with the probate's certificates and register's certificate and amount of fees did this day complete the registration in said county in Book B, No. 2, beginning on page 290 and ending on page 317.

This July the 8th, A. D. 1880.

T. H. PARRISH,
Register of Deeds for Swain County, N. C.

Reg. fees, \$10.50.

EXHIBIT D.

EXHIBIT D.

Whereas, under an award made by Rufus Barringer, John H. Dillard, and Thomas Ruffin, arbitrators, in the case of the Eastern Band of Cherokee Indians against William H. Thomas, William Johnston, *et al.*, in the circuit court of the United States for the western district of North Carolina, James W. Terrell and Thomas D. Johnston were, by a decree of said court, appointed commissioners to sell certain lands referred to in said award to discharge and pay off the judgments therein

awarded to be due to William Johnston from William H. Thomas, which said lands had theretofore been sold under execution on said judgments and conveyed by deed executed by the sheriffs of the counties of Cherokee, Macon, and Jackson, North Carolina, to the said William Johnston; and whereas, since the date of said decrees said judgments have been purchased and duly assigned to the Commissioner of Indian Affairs of the United States, in trust, and for the use and benefit of the Eastern Band of Cherokee Indians of North Carolina, and under the provisions of an act of Congress entitled "An act to authorize the Commissioner of Indian Affairs to receive lands in payment of judgments to Eastern Band of Cherokee Indians," approved August 14, 1876, the Commissioner of Indian Affairs was authorized to purchase and receive certain lands, therein referred to, in full payment and final discharge of the aforesaid judgments, in trust and for the use and benefit of said Eastern Band of Cherokee Indians; and whereas, in pursuance of the provisions of said act of Congress, Mark C. King on the part of the Commissioner of Indian Affairs, and William A. Dills on the part of William H. Thomas, were selected as appraisers to value and appraise the lands hereinafter described, which are referred to in the aforementioned award, and were duly selected by said Eastern Band of Cherokee Indians, through a committee appointed by them at their annual general council, held at Cheoah council grounds in Graham Co., North Carolina, on the first Monday of October, 1876; and whereas, in consideration of the above recited facts and in full satisfaction of the said judgments amounting to the sum of twenty thousand five hundred and sixty-one and $\frac{86}{100}$ dollars, a deed was executed on the 9th day of October, A. D. 1876, by William Johnston and wife, Lucinda M. Johnston, of the county of Buncombe, North Carolina, and James W. Terrell, of Jackson Co., and Thomas D. Johnston, of Buncombe Co., State aforesaid, commissioners named in said award, and also agents and attorneys for William H. Thomas, by virtue of a power of attorney dated June 3, 1875, to the Commissioner of Indian Affairs, as trustee for said Eastern Band of Cherokee Indians, for 15,211 $\frac{1}{2}$ acres, which are referred to in the aforesaid award, in satisfaction of said judgments; and whereas, in making said deed it was found impracticable to obtain correct descriptions of the lands to be conveyed until after a survey of the same, it was agreed by and between all parties to said deed that after a survey was made a new deed should be executed by William Johnston and wife, and Messrs. Terrell and Johnston, commissioners as aforesaid, and attorneys for William H. Thomas, containing correct descriptions of said lands and it was further understood and agreed at the time of executing said deed between all parties to the same, that when the number of acres called for in said deed should not hold out by the survey the balance was to be made up by the said first parties from adjacent lands owned by them, and in case the area should overrun the number of acres called for in said deed, the deduction should be made in the new deed; and that all clouds upon the title to the lands in question were to be removed by said William H. Thomas, and that in case any lands included in the said deed shall have been conveyed by said Thomas to white men before the execution of the said deed of October 9, 1876, then and in such case, other lands of the same class may be substituted therefor to the extent of 600 acres, it being contemplated in said deed to convey just the number of acres at the value fixed by the appraisers necessary to liquidate the judgments aforesaid; and whereas said lands which have unclouded titles have been surveyed, and correct descriptions and area obtained, and it has also been found that part of the lands included in the State grants embraced in said deed have been conveyed by said Thomas to white men before the execution of the same, and that these titles can not be cleared now, and the parties of the first part having agreed to substitute other lands therefor, which has received the approval of the Commissioner of Indian Affairs, dated June 22, 1880; and the said tracts to be so substituted having been duly selected by the said Eastern Band of Cherokee Indians through a committee appointed by them at a special meeting of the regular council of the band held July 3, 1880, at Yellow Hill Council House, in Swaine Co., N. C.; and whereas, since the date of the first deed, the said William H. Thomas has been declared a lunatic, and William L. Hilliard, of Buncombe Co., was appointed, April 5, 1878, his guardian by the probate court of Jackson Co., N. C., and then has upon due proceedings had an order made and entered in the said probate court authorizing and directing the said guardian to make and execute title to the lands hereinafter described:

Now, therefore, in consideration of the above-recited facts, and in full satisfaction of the aforesaid judgments, which amounted at the date of the first deed, October 9, A. D. 1876, to the sum of twenty thousand five hundred and sixty-one and $\frac{86}{100}$ dollars, the following indenture (which is to take the place of the first deed) is executed:

This indenture, made and executed this (14) fourteenth day of August, in the year of our Lord one thousand eight hundred and eighty, by and between William Johnston and wife, Lucinda M. Johnston, and William L. Hilliard, of Buncombe Co., North Carolina, guardian of William H. Thomas, as aforesaid, and James W. Terrell,

of Jackson Co., and Thomas D. Johnston, of Buncombe Co., State aforesaid, commissioners under the said decree of the circuit court of the United States for the western district of North Carolina, at the November term, A. D. 1874, at Asheville, and also as agents and attorneys for William H. Thomas, by virtue of a power of attorney to them, dated June 3, 1875, of the first part, and the Commissioner of Indian Affairs of the United States as trustee for said Eastern Band of Cherokee Indians of North Carolina of the second part, witnesseth:

That the said parties of the first part, for and in consideration of the premises, and in the further consideration of the payment of the amount and final discharge of said judgments, amounting to twenty thousand five hundred and sixty-one and $\frac{85}{100}$ dollars, the receipt whereof is hereby confessed and acknowledged, have granted, bargained, sold, aliened, enfeoffed, released, and conveyed, and do by these presents grant, bargain, sell, alien, enfeoff, release, and convey unto the party of the second part, the Commissioner of Indian Affairs and his successors in office, as trustee for the Eastern Band of Cherokee Indians of the State of North Carolina, all their right, title, interest, claim, or demand whatsoever in and to the following-described lands, to wit:

1. The land awarded to Dick-ageske's heirs, being section 367 in district number nine in Graham County, N. C., bounded and more particularly described as follows, viz: Beginning on a hickory on a ridge N. W. corner of 405, from which a B. oak 6 in. dia. bears S. 37 W. 7 links dist., and a B. oak 6 in. dia. bears W. 20 links dist.; thence N. 50 E., reaching corner No. 2 at 90 poles a hickory (fallen) corner on a small hickory; thence S. 50 E. alongside of a ridge reaching a chestnut in a hollow at 180 poles, cor. 3 (formerly a stake); thence S. 50 W. 90 poles to a post oak on a ridge, beginning cor. of No. 405; thence N. 50 W. with the line of No. 405 180 poles to the beginning, containing one hundred acres.

2. The land awarded to Oo-tal-ka-nah, being section three hundred and seventy-three in district number nine, in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning on a Spanish oak 5 poles from N. bank of Snowbird River, from which a white oak 28 in. dia. bears S. 30 E. 47 links dist., and a B. oak 8 in. dia. bears N. 50 E. 32 links dist.; thence N. 30 E. reaching corner at 100 poles, a sourwood on a rock (fallen), corner on a hickory; thence E. 140 poles to a red oak (fallen), cor. on a white oak, corner 3 and corner 2 of tract No. 1995; thence S. 30 W. 100 poles to a cottonwood on the N. bank of Snowbird River; thence up the river as it meanders, reduced to direct line 140 poles to the beginning, containing seventy-five acres.

3. The land awarded to Chin-aque (or John Owl), "whereon he lived in 1855, in Cherokee County, excepting all mineral interest," being tract number 98 in district number one in said county, on the waters of Vengeance Creek, bounded and more particularly described as follows, viz: Beginning at a pine the beginning corner of No. 97 from which a white oak 15 in. dia. bears N. 2 E. 34 links dist. and a white oak 20 in. dia. bears N. 55 E. 30 links distant and hickory 12 in. dia. bears S. 47 E. 27 links dist. thence E. crossing Vengeance Creek at 34 poles, reaching corner at a birch at 108 poles; thence N. crossing Vengeance Creek, reaching corner at 126 poles, corner on a sassafras; thence W. 108 poles to a B. oak cor. of No. 96; thence S. with the line of No. 96 126 poles to the beginning, containing eighty-five acres.

4. The land awarded to Too-way-al-lah, being part of number twelve in district number ten, in Graham Co., N. C., bounded and more particularly described as follows, viz: Tract lying on the waters of Snowbird Creek; beginning on a post the NW. corner of 363 of the State survey, from which a black oak 6 in. dia. bears N. 4 W. 24 links dist., and a white oak 6 in. dia. bears S. 85 W. 43 links dist.; thence S. 65 W. 180 poles to a chestnut oak, corner 2; thence S. 40 E. 90 poles to a hickory, corner 3, on the side of a ridge; thence N. 65 E. 180 poles to a hickory on a line of No. 363 of the State survey, corner 4; thence with said line N. 40 W. 90 poles to the beginning, containing ninety-nine acres.

5. The land awarded to Corn Silk, being section 588 in district number nine, in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning on a hickory from which a black gum 6 in. dia. bears N. 32 W. 23 links dist., and a white oak 12 in. dia. bears N. 75 E. 60 links dist.; thence S. 66 W. 90 poles to a white oak near a trail, corner 2; thence N. 53 W. 180 poles to a chestnut (fallen) corner on a spruce pine, corner 3; thence N. 66 E. reaching Snowbird River at 44 poles, reaching a chestnut at 90 poles on the N. bank of said river, corner 4; thence S. 53 E. crossing river at 2 poles, reaching beginning at 180 poles, containing ninety acres.

6. The land awarded to Tracking Wolf, being section 404 in district number nine, in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning on a Spanish oak, formerly a hickory, from which a chestnut 48 in. dia. bears S. 42 W. 34 links distant, and a chestnut oak 20 in. dia. bears N. 68 E. 25 links dist.; thence N. 35 W. 160 poles to a spruce pine in the line of No. 367, corner 2; thence with said line S. 50 W. 40 poles to a post oak, corner 3, and beginning corner of No.

405, 4 corner of No. 367; thence S. 10 E. 10 poles with the line of No. 405, 20 poles to a post in a field; thence S. 35 E. crossing Snowbird River at 28 poles, reaching corner No. 4 at 140 poles, a hickory, formerly a stake on W. bank of Snowbird River; thence N. 10 E. along face of mountain, crossing Snowbird River at 72 poles, passing corner No. 59 at 84 poles, reaching the beginning at 125 poles, containing ninety-three acres.

7. The land awarded to Richard Henson in section fourteen in district number five, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning on a black oak (fallen), set a post which stands S. 160 poles from No. one connecting line of this tract, from which a Spanish oak 4 in. dia. bears S. 12 W. 10 links dist. and a black oak 4 in. dia. bears N. 59 W. 12 links dist.; thence S. 160 poles to a black oak, the N. W. cor. of No. 4; thence E. 103 poles to a black gum, the S. W. corner of No. 9 in the gap of small ridge near the new turnpike road; thence N. 160 poles, reaching corner NW. corner of No. 9 (fallen), set a post; thence W. 103 poles to the beginning, containing one hundred and three acres.

8. The land awarded to Richard Henson and others, and their heirs, in section eleven in district number five, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning on a post the N. W. cor. of tract No. 9, and the N. E. cor. of No. 2 of the U. S. survey, from which a white oak 15 in. dia. bears N. 61 E. 42 links dist., and a B. oak 12 in. dia. bears S. 9 W. 30 links distant; thence E. 160 poles to a post oak on top of hill N. E. cor. of No. 9; thence N. passing N. W. cor. of No. 8 at 80 poles, reaching corner at 439 poles (fallen), set a post from which a sassafras 12 in. dia. bears N. 30 E. 32 links dist., and a chestnut 14 in. dia. bears N. 77 W. 30 links distant; thence W. crossing turnpike road at 124 poles, total distance 160 poles, to corner 3 (set a post), from which a red oak 10 in. dia. bears S. 74 E. 15 links dist., and a pine 12 in. dia. bears N. 10 E. 25 links dist.; thence S. recrossing turnpike road at 70 poles, reaching the beginning at 439 poles, containing four hundred and thirty-nine acres.

9. The land ("bounty claim") awarded to Richard Henson, in district number five, in Cherokee County, N. C., bounded and more particularly described as follows, viz: Beginning at a post oak SW. corner of No. 21, from which a post oak 20 in. dia. bears S. 10 W. 20 links dist. and a hickory 6 in. dia. bears N. 82 E. 19 links dist. and a chestnut 6 in. dia. bears N. 22 W. 4 links dist.; thence W. reaching cor. at 139 poles; thence N. 45 W. 48 poles, but found to be S. 72 poles to a hickory (fallen), set a post from which a white 8 in. dia. bears N. 18 W. 35 links dist. (no other witness tree available); thence W. crossing Hanging Dog at 47 poles, reaching corner at 67 poles; thence N. 45 W. 47 poles to corner of No. 20; thence N. 41 poles to a pine in line of No. 20; thence W. reaching corner at 379 poles and with Fains donation line; thence S. 1 W. reaching cor. at 95 poles; thence S. 20 W., found to be S. 68 W., crossing a small ridge reaching cor. at 66 poles; thence S. 9 E. 59 poles, found to be 66 poles; thence S. 8 poles to a post oak, NE. cor. of No. 58; thence S. 186 poles, passing Campbell Taylor's farm, it being corner of No. 56 (fallen), set a post from which a B. oak 12 in. dia. bears S. 20 E. 35 links dist. and a B. oak 11 in. dia. bears S. 9 W. 35 links dist.; thence N. 57 E., found to be N. 67 E., reaching cor. at 77 poles on side of a hill; thence S. 23 E., found to be S. 70 E., reaching cor. at the E. bank of Grape Creek, crossing creek at 79 poles; thence S. 43 E. 28 poles, recrossing Grape Creek, NW. of No. 61 corner tree fallen, set a post, no witness tree available; thence E. crossing a dim road at 48 poles, passing over rolling land, and NE. cor. of No. 61 at 102 poles, reaching NE. cor. of No. 62 at 268 poles; thence S. 123 poles to a post oak SE. cor. of No. 62; thence W. with the line of No. 62, 52 poles to a post oak in said line; thence S. 141 poles to a B. oak in N. boundary line No. 36; thence E. 222 poles with the line of No. 36 and 35, passing its cor. at 60 poles, a B. oak and stake is NE. cor. of No. 35; thence N. 120 poles to a small black oak, NW. cor. of No. 14 (not found), set a post, crossing Hanging Dog Creek at 80 poles; thence E. with the line of No. 14, 166 poles to a small post oak; thence N. passing NW. cor. of No. 16, crossing a small branch at 124 poles, ascending a long ridge reaching top of ridge at 336 poles, descending hill reaching corner at 434 poles a hickory in line of No. 44, cut down, corner on a B. oak; thence W. passing SW. corner of No. 44 at 10 poles, reaching corner at 100 poles SW. and beginning corner of No. 22; thence N. thro. flat land reaching the beginning at 100 poles, containing two thousand one hundred and eighty acres.

10. The land awarded to "Salka-nah and others," in district number 6, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Tract number sixty-three, in district number six, beginning on a Spanish oak NE. cor. of number 61, from which a B. oak 6 in. dia. bears S. 40° E. 12 links distant, and a Spanish oak 6 in. dia. bears NW. 36 links dist.; thence N. over rolling land 121 poles to a B. oak in gap of ridge; thence W. across side of mountain with the line of No. 64, 121 poles to a blackjack; thence S., ascending mountain, reaching cor. at 121 poles, a black oak; thence E. with the of No. 61, 121 poles to the beginning, containing ninety-one acres.

11. The land awarded to Tes-a-tees kak, situated in district number nine, in Gra-

ham Co., N. C., bounded and more particularly described as follows, viz: Beginning at a small hickory on the E. bank of Snowbird River, old corner (fallen), from which a hickory 6 in. dia. bears N. 45 W. 7 links distant, and a white oak 6 in. dia. bears S. 45 W. 15 links distant; thence E. ascending mountain, reaching corner on side of said mountain at 94 poles a hickory, corner 2; thence S. along the face of the mountain, descending gradually, reaching Snowbird River at 110 poles, this point being N. 55 W. 116 poles from the 2d and NE. cor. of No. 367, beginning to ascend a steep mountain at 115 poles, reaching corner No. 3, a chestnut, at 127 poles; thence W. along the side of a mountain, reaching corner at 94 poles, a chestnut (fallen), corner on a white oak, corner 4; thence N., descending mountain, reaching river at 124 poles, reaching beginning at 127 poles, containing seventy-four acres.

12. The land awarded to George Oo yah ste-ah, in section 365, in district number nine, in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning on a B. oak from which a white oak 8 in. dia. bears E. 34 links dist. and a Spanish oak 6 in. dia. bears W. 14 links dist.; thence S. 90 poles to a chestnut, corner No. 20; thence W. ascending a mountain gradually reaching top 106 poles, beginning to descend mountain at 108 poles, reaching base at 165 poles, reaching an apple tree at 180 poles, corner No. 3; thence N. 90 poles to a B. oak, formerly a stake, corner No. 4; thence E. ascending mountain reaching top at 20 poles; thence along the face of the mountain 180 poles to beginning, containing one hundred and one acres.

13. The land awarded to Cah-nah-a-to-go and others, in section 405, in district number nine, in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning on a post oak on a ridge from which a B. oak 6 in. dia. bears S. 29 E. 70 links dist. and a B. oak 14 in. dia. bears N. 37 links dist.; thence N. 50 W. reaching Snowbird River at 108 poles, reaching a hickory at 180 poles, corner No. 2, with the line of No. 367; thence S. 10 E. reaching an iron-wood in a cove at 90 poles, corner No. 3; thence S. 50 E. crossing Snowbird River at 146 poles; thence over flat land crossing river at 162 poles, crossing again at 180 poles, reaching corner at formerly a stake but made on a large spruce pine at 180 poles, corner No. 4; thence N. 90 poles to beginning, containing sixty-three acres.

14. The land awarded to Co-he-los-kah, in section 93, in district number nine, in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning on a white oak on point of a ridge, at N. E. corner of No. 17, from which a post oak 14 in. dia. bears S. 47 W. 50 links dist. and a white oak 10 in. dia. bears N. 60 west 10 links dist.; thence W. with the line of No. 17, reaching Snow Bird Creek at 108 poles, reaching a post on the W. bank at 112 poles, corner No. 2; thence N. with the line of No. 98, reaching the E. bank of Snowbird River at 24 poles, running over smooth rolling land 190 poles to a post oak, corner No. 3; thence E. with the line of No. 96, 112 poles to a young B. oak for cor. No. 4, and N. W. corner of No. 91; thence S. with the line of No. 91, 190 poles to the beginning, containing one hundred and thirty-three acres.

15. The lands awarded to Chees-que-ne-tah (or Tom-tee-ote-lah), in district number ten, in Graham Co., N. C., on the waters of Buffalo Creek, bounded and more particularly described as follows, viz: Beginning on a small chestnut on bank of branch 5 poles N. from N. W. corner of tract No. 13, in district number ten, from which a white oak 12 in. dia. bears N. 50 links distant, and a white oak 8 in. dia. bears S. 76 W. 30 links dist. Thence N. 67 W. reaching a pine at 180 poles, on side of mountain, corner No. 2; thence S. along side of a mountain 165 poles to a large hickory in a cove, corner No. 3; thence E. descending gradually, reaching a pine at 160 poles, in the line of No. 13, cor. No. 4; thence N. with the line of No. 13, 92 poles to the beginning, passing N. E. cor. of No. 13 at 87 poles, containing one hundred and twenty-eight acres.

16. The land awarded to Tet-al-ka-nah, being tract No. 91, in district number nine in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning on a white oak on the S. side of a hill, N. W. cor. of No. 19, from which a B. oak 14 in. dia. bears N. 67 W. 100 links dist., and a hickory 6 in. dia. bears N. 56 E. 30 links dist; thence W. with the lines of numbers 95 and 96 over rolling land 197 poles, to a young B. oak in the line of No. 96; thence S. with the line of No. 93 190 poles to a white oak on point of a ridge for corner No. 2; thence E. with the line of No. 16 and 15 ascending a hill at 24 poles, reaching top at 112 poles, descending at 114 poles, passing corner of No. 16 at 152 poles, total 197 poles, to a B. oak for corner No. 4; thence N. 190 poles to the beginning with the line of No. 19, containing two hundred and thirty-four acres.

17. Tract number seventeen, in district number nine, in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning on a mountain oak on point of ridge S. W. corner of No. 91, from which a post oak 14 in. dia. bears S. 47 W. 50 links dist., and a white oak 10 in. dia. bears N. 60 W. 10 links dist.; thence S. over rolling land with the line of No. 16, reaching at 184 poles a hickory on the side of a mountain for cor. No. 2; thence W., reaching a hickory on side of a

mountain at 112 poles, corner No. 3; thence N. over rolling land 160 poles to Snowbird River, reaching at 184 poles to a post, corner No. 4, on the W. bank of said river, from which a spruce pine 6 in. dia. bears S. 6 E. 40 links dist., and a chestnut 12 in. diameter bears N. 4 W. 44 links dist.; thence E. with the line of No. 93, crossing Snowbird River 4 poles wide, runs N. E., reaching at 112 poles the beginning, containing one hundred and twenty-eight acres.

18. Tract number 37, in district number nine, in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning on a hickory N. E. corner of No. 33, from which a B. oak 8 in. dia. bears N. 30 W. 42 links, and a Spanish oak 20 in. dia. bears S. 20 E. 33 links distant; thence E. with the line No. 36, reaching a pine on the side of a hill at 90 poles, corner 2; thence N. along the face of mountain, reaching corner at 120 poles, a black gum, corner 3; thence W. along the face of mountain 90 poles to a Spanish oak on side of mountain, cor. 4; thence S. along the face of mountain 120 poles to the beginning with the line of No. 32, containing sixty-seven acres.

19. Tract number 87, in district number nine, in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning on a chestnut N. W. corner of 88, from which a white oak 12 in. dia. bears N. 24 E. 40 links dist., and a chestnut 38 in. dia. bears S. 16 E. 41 links dist.; thence W. crossing W. fork of Mountain Creek at 40 poles, reaching a hickory at 154 poles, corner in a hollow; thence S. 160 poles to a white oak, cor. No. 3, standing 74 poles N. from N. E. corner of No. 90; thence E. 154 poles to a small B. oak, corner 4 and corner No. 88; thence N. crossing Mountain Creek at 42 poles, running over rolling land 160 poles with the line of No. 88 to the beginning, containing one hundred and fifty-four acres.

20. Tract number 88, in district number nine, in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning on a B. oak S. E. cor. of No. 87, from which a B. oak 6 in. dia. bears S. 57 W. 15 links distant, and a B. oak 12 in. dia. bears N. 67 E. 13 links dist.; thence E. 104 poles to a small B. oak for cor. No. 2; thence N. 160 poles to a small white oak, corner No. 3; thence W. 15 poles to a mountain creek, reaching a chestnut at 140 poles near the foot of said hill, corner No. 4; thence S. with the line of No. 87, crossing Mountain Creek at 118 poles, reaching the beginning at 160 poles, containing one hundred and four acres.

21. Tract number 92, in district number nine, in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning at a B. oak N. E. cor. of No. 84, from which a Spanish oak 18 in. dia. bears N. 3 E. 38 links distant, and a B. oak 8 in. dia. bears S. 85 W. 20 links dist.; thence E. with the line of No. 85 crossing Sweetwater Creek at six poles, reaching cor. No. 2, a B. oak near the top of mountain, at 126 poles (formerly 120 poles); thence N. along the face of mountain, crossing top of mountain at 140 poles, reaching corner No. 3 at 171 poles, a Spanish oak in a cove; thence W., ascending a mountain, crossing top of mountain at 26 poles, reaching cor. at 126 poles; thence S. descending mountain 171 poles to the beginning, containing (134) one hundred and thirty-four acres.

22. Tract number 90, in district number nine, in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning on a black oak N. E. corner of No. 100, from which a post oak 14 in. dia. bears S. 88 E. 85 links dist., and a white oak 20 in. dia. bears N. 61 E. 79 links dist.; thence N. 46 poles to a locust on the side of a hill for corner No. 2; thence E. reaching corner No. 3, a chestnut, at 208 poles; thence S. over rolling land 108 poles to a B. jack, S. W. corner of No. 90, for corner No. 4 with line of No. 86; thence W. 208 poles to a hickory for corner No. 5; thence N. 62 poles to the beginning, containing one hundred and forty-one acres.

23. Tract number 103, in district number nine, in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning on a white oak in a field N. W. cor. of No. 101 (no witness trees available); thence N. with district line ascending hill, reaching top at 44 poles, at 105 poles reaching corner No. 2, a small black oak on hillside, from which a black oak 6 in. dia. bears N. 37 W. 26 links dist., and a chestnut 8 in. dia. bears S. 82 E. 45 links distant; thence E. through flat land 146 poles to a black oak for cor. No. 3 on point of a ridge; thence S. 105 poles, reaching post oak for corner No. 4 in a line of No. 101; thence west with the line of No. 101 146 poles to the beginning, containing ninety-five acres.

24. Tract number eight, in district number ten, in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning on a hickory the S. E. cor. of No. 20 and S. W. corner of No. 21, from which a hickory 10 in. dia. bears S. 87 W. 50 links distant and a B. oak 18 in. dia. bears N. 63 W. 54 links dist.; thence S. with the line of No. 19, reaching Cheoeh River at 100 poles, 8 poles wide runs N. W., reaching at 226 poles, corner a hickory near top of mountain; thence W. with the line of No. 7 along the side of a mountain, crossing a branch at 96 poles 8 links wide, and runs N., bear. cor. running through a field, ascending a high ridge at 120 poles, summit at 200 poles then along said ridge to 284 poles to a small chestnut oak, corner No. 3, on point of ridge; thence N. descending ridge, reaching a branch at 72 poles 10 links wide, runs E., crossing a branch 12 links wide, reaching at 226 poles corner, a hickory; thence E. 284 poles to the beginning, containing four hundred and one acres.

25. Tract number seven, in district number one, in Cherokee County, N. C., bounded and more particularly described as follows, viz: Beginning at a hickory at the foot of a mountain near a branch from which a hickory 14 in. dia. bears N. 38 W. 20 links dist., and a white oak 16 in. dia. bears S. 15 W. 22 links dist.; thence N. 200 poles to a b. oak fallen corner on a hickory; thence W. 156 poles to a Spanish oak on top of a mountain (fallen), set a post, thence S. 200 poles to a b. oak corner, thence E. 156 poles to the beginning, containing one hundred and ninety-five acres.

26. Tract number 56, in district number one, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a black jack, N. W. cor. of No. 55, from which a b. jack 9 in. dia. bears N. 66 W. 25 links dist., and a b. gum 6 in. dia. bears S. 1 W. 10 links dist.; thence W. with the line of No. 61, 265 poles to a stake and pointers, cor. on a b. oak on line of No. 59; thence S. 190 poles, passing corner of No. 59 at 86 poles, corner on a chestnut oak, No. 3; thence E. with the line of No. 17, 265 poles to a pine; thence N. with line of No. 55, 190 poles to the beginning, containing three hundred and fourteen acres.

27. Tract No. 57, in district number one, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning on a black jack, on a ridge, the beginning of No. 56, from which a b. jack 9 in. dia. bears N. 66 W. 25 links dist., and a black gum 6 in. dia. bears N. 1 W. 10 links dist.; thence N. with the line No. 61, 170 poles to two hickories in a flat; thence E. with the line of No. 58, 220 poles to a hickory on a ridge (fallen) corner on a black gum; thence S. with the line of No. 51, 170 poles to a black oak, corner 4, and beginning corner of No. 55, thence W. with the line of No. 55, 220 poles to the beginning, containing (233) two hundred and thirty-three acres.

28. Tract No. 58, in district number one, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a b. oak, on point of a ridge, the beginning cor. of 52, from which a white oak 8 in. dia. bears N. 85 W. 10 links dist.; thence W. 220 poles to a stake, corner on a white oak; thence S. 206 poles, to two small hickories in a flat; thence with the line of No. 57, 220 poles to a hickory, N. E. corner of No. 57 (fallen) corner on a black gum; thence N. with a line of No. 52, 206 poles to the beginning, containing (283) two hundred and eighty-three acres.

29. Tract No. 59, in district number one, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a post oak, N. E. cor. of No. 9, from which a p. oak, 15 in. dia., bears N. 65 E. 45 links dist., and a hickory 6 in. dia., bears N. 27 W. 20 links dist.; thence E. with the line of No. 60, 90 poles to a hickory in a hollow near a branch; thence S. with the lines of Nos. 61 and 56, 176 poles to a post in a line of No. 56, passing corner of 61 at 90 poles; thence W. with the line 90 poles to a b. oak near a branch; thence N. with the line of No. 9, 176 poles to the beginning, containing ninety-two (92) acres.

30. Tract No. 60, in district number one, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a hickory in a hollow in a line of No. 61, from which a hickory 12 in. dia. bears S. 50 E. 40 links dist. and a Spanish oak 15 in. dia., bears N. 41 E. 45 links dist.; thence N. with the line of No. 61, 80 poles to a white oak on the S. bank of a branch, corner 2; then W. 30 poles to a mountain birch on the S. bank of Valley River, at the mouth of a branch, cor. 3; thence down said river as it meanders, S. 40 W. 36 poles; S. 65 W. 14 poles; N. 65 W. 25 poles; N. 32 W. 68 poles; N. 62 W. 13 poles; W. 15 poles; S. 37 W. 46 poles; S. 21 W. 58 poles; S. 31 poles to a white oak on bank of said river (fallen), cor. on a locust; thence E. with the lines Nos. 9 and 59, 204 poles to the beginning, containing ninety-six acres.

31. Tract No. 96, in district number one, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a chestnut, the beginning cor. of No. 95, from which a b. gum 14 in. dia. bears N. 30 E. 42 links dist., and a red oak 14 in. dia. bears N. 8 W. 32 links dist.; thence E. with the line of No. 95, 86 poles to a pine on a knoll; thence N. with the line of No. 98, 126 poles to a b. oak, N. W. cor. of No. 98; thence W. with the line of No. 99, 86 poles to a corner from which a chestnut oak 12 in. dia. bears N. 24 W. 52 links dist., and a pine 12 in. dia. bears N. 83 E. 40 links dist.; thence S. 146 poles to the beginning, containing sixty-seven acres.

32. Tract No. 61, in district number one, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning on a white oak, N. E. cor. of No. 60, from which a chestnut 6 in. dia. bears S. 14 W. 15 links dist., and a maple 6 in. dia. bears N. 26 W. 20 links dist.; thence S. with the lines of Nos. 60 and 59, 170 poles to a stake, cor. on a b. oak; thence E. with the line of No. 56, 265 poles to a blackjack, cor. 3, and beginning of Nos. 56 and 57; thence N. with the line of No. 57, 170 poles to two hickorys in a field, cor. 4, and N. W. cor. of No. 57; thence W. 265 poles to the beginning, containing two hundred and eighty-one acres.

33. Tract No. 97, in district number one, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a pine on a knoll, the beginning of No. 98, from which a white oak 15 in. dia. bears N. 2 E. 34 links dist., and a white oak 20 in. dia. bears N. 55 E. 30 links dist., and a hickory 12 in. dia. bears S. 47 E. 27

links dist.; thence S. with the line of No. 95, 6 poles to Vengeance Creek, reaching cor. at 116 poles a white oak S. E. cor. of No. 95; thence E. 108 poles to a maple, cor. No. 3; thence N. 116 poles to a beech, cor. 4 and S. E. cor. of No. 98; thence W. with the line of No. 98, 108 poles to the beginning, containing seventy-eight acres.

34. Tract No. 99, in district number one, in Cherokee County, N. C., bounded and more particularly described as follows, viz: Beginning on a black oak (fallen) the beginning of No. 93, from which a b. oak 12 in. dia. bears N. 15 E. 33 links dist., and a post oak 6 in. dia. bears N. 41 W. 41 links dist.; thence N. 96 poles to a b. oak, the beginning cor. of No. 100; thence E. with the line of No. 100, 206 poles to a stake cor. on maple on N. bank of Vengeance Creek; thence S. 18 W. 98 poles to a black oak N. E. cor. of No. 96; thence W. 178 poles to the beginning, containing one hundred and fifteen acres.

35. Tract No. 100, in district No. one, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a b. oak NW. cor. of No. 99 (no witness trees available); thence N. 114 poles to a b. jack in district line No. 7, from which a pine 12 in. dia. bears N. 67 E. 17 links dist., and a pine 12 in. dia. bears N. 32 W. 17 links dist.; thence E. 245 poles to a b. oak with the district line No. 7 (cor. not found, made on a black oak); thence S. 18 W. 120 poles to a maple on the N. bank of Vengeance Creek; thence W. with line of No. 99, 206 poles to the beginning, containing one hundred and sixty acres.

36. Tract number fifteen, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a chestnut N. W. cor. of No. 9, from which a hickory 12 in. dia. bears S. 31 E. 37 links dist., and a chestnut 14 in. dia. bears N. 45 W. 3 links dist.; thence W. 75 poles to cor. on a chestnut oak, cor. 2; thence S. 126 poles to a stake N. W. cor. of No. 8; thence E. with the line of No. 8, 75 poles to a Spanish oak, formerly a stake; thence W. with the line of No. 9, 126 poles to the beginning, containing fifty-nine acres.

37. Tract number sixteen, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a locust on top of a mountain between Valley River and Hanging Dog Creek in the line of No. 15, from which a hickory 12 in. dia. bears N. 15 W. 11 links dist., and a b. oak, 16 in. dia. bears N. 32 E. 38 links dist.; thence W. 15 poles to a chestnut oak, corner 2; thence N. 160 poles to a stake corner on a chestnut, cor. 3; thence E. 75 poles to a sourwood N. W. cor. of No. 14; thence S. with the line of No. 14, 160 poles to cor. from which a hickory 12 in. dia. bears S. 31 E. 37 links dist., and a chestnut 14 in. dia. bears N. 45 W. 3 links dist.; thence W. with the line of No. 15, 60 poles to the beginning, containing 75 acres.

38. Tract number thirty-two, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a hickory 20 poles N. of S. W. cor. of No. 34, from which a b. jack 8 in. dia. bears S. 27 E. 23 links dist., and a locust 9 in. dia. bears N. 57 E. 20 links distant; thence N. 200 poles to a large white pine near Calvert's Creek; thence W. 198 poles to corner formerly a stake, corner on a hickory; thence S. 200 poles, cor. on top of a ridge N. W. cor. of No. 31; thence E. 198 poles to the beginning, with the line of No. 31, containing two hundred and forty-seven acres.

39. Tract number thirty-four, in district number 6, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a red oak N. E. cor. of No. 33, from which a b. oak 6 in. dia. bears S. 67 E. 44 links dist., and a red oak 6 in. dia. bears S. 15 E. 13 links dist.; thence N. 200 poles to a black jack, corner cut down, corner on a small black oak on a ridge; thence 174 poles to a b. oak on side of a hill near Calvard's Creek, S. W. cor. 35; thence S. 200 poles corner on a hickory, corner of No. 33; thence E. 174 poles to the beginning, containing two hundred and seventeen acres.

40. Tract number thirty-five, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning on a b. oak N. W. cor. of No. 34, on the side of a hill near a creek from which a Spanish oak 8 in. dia. bears S. 32 E. 27 links distant, and a chestnut 36 in. dia. bears S. 13 W. 32 links dist., and a hickory 12 in. dia. bears S. 85 W. 40 links dist.; thence N. 189 poles to a b. oak (fallen) corner on a poplar; thence E. 174 poles to a poplar in an old crossing; thence S. 189 poles to a black jack N. E. cor. No. 34, cut down, cor. on a small b. oak on a ridge; thence W. with the line of No. 34, 174 poles to the beginning, containing two hundred and five acres.

41. Tract number forty-eight, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning on a Spanish oak S. W. of No. 62 (not found), cor. on a b. oak, N. W. cor. of No. 57, from which a chestnut oak 24 in. dia. bears N. 1 W. 42 links dist., and a hickory 9 in. dia. bears S. 15 E. 35 links dist.; thence N. with the line of No. 62, 112 poles to a hickory on a high hill; thence W. 124 poles corner a black jack, found to be a black gum, on the E. bank of Fodder's Creek in the line of 59; thence S. with the line of 59, 112 poles, corner a locust (formerly a stake), N. W. cor. of tract 53; thence E. 124 poles to the beginning with the line of No. 53, containing eighty-six acres.

42. Tract fifty-three, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning on a post oak N. E. corner of No. 53, from which a b. oak 10 in. dia. bears S. 15 E. 35 links dist. and a hickory 12 in. dia. bears S. 27 W. 32 links distant; thence N. 160 poles to a black oak, cor. No. 2, formerly a Spanish oak; thence W. with the line of No. 48, 124 poles to a locust cor. No. 3, and S. W. cor. of No. 48; thence S. 160 poles to a hickory (fallen) N. W. corner of No. 52, cor. on a small white oak; thence E. with the line of No. 52, 124 poles to the beginning, containing one hundred and twenty-four acres.

43. Tract number fifty-seven, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning on a maple on the W. bank of Fodder's Creek, from which a white oak six in. dia. bears N. 56 W. 12 links dist. and a white oak 6 in. dia. bears N. 22 E. 9 links dist.; thence N. 55 poles to a hickory on W. bank of said creek; thence W. with the line of No. 62, 176 poles to a b. oak, cor. 3, and S. E. cor. of 48; thence S. with the line of No. 53, 55 poles to a post oak found to be black oak; thence E. 176 poles to the beginning, containing sixty acres.

44. Tract number fifty-nine, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a maple at 16 poles N. from N. W. cor. of No. 48, from which a white oak 36 in. dia. bears S. W. 14 links distant, and a hickory 10 in. dia. bears N. 30 E. 23 links dist.; thence W. 100 poles corner a chestnut oak, formerly a stake. Thence S. 97 poles cor. on a large poplar in a cove, formerly a stake; thence E. 100 poles to cor. a black jack (not found) set a post in the line of 48; thence N. with said line 97 poles to the beginning, containing sixty acres.

45. Tract number sixty-four, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a b. oak N. E. cor. of No. 63, from which a chestnut oak, 9 in. dia. bears S. 40 W. 3 links dist., and a chestnut oak, 20 in. dia. bears N. 65 W. 30 links dist.; thence N. 114 poles to cor. a b. oak on top of a ridge; thence W. 121 poles to corner on a beech, formerly a stake, cor. 3; thence S. 114 poles to corner; thence E. with the line of No. 63, 121 poles to the beginning, containing eighty-six acres.

46. Tract number sixty-five, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning on a white oak corner of No. 75, from which a locust 8 in. dia. bears N. 38 W. 50 links dist. and a Spanish oak 15 in. dia. bears S. 5 W. 23 links dist.; thence N. 76 poles in line of No. 64 near the top of hill; thence W. 176 poles to cor. near top of mountain cor. on a chestnut, formerly a stake; thence S. 76 poles to cor., corner on a chestnut N. W. cor. of No. 75; thence E. with the line of No. 75, 176 poles to the beginning, containing eighty acres.

47. Tract number ninety-three, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a pine N. E. cor. of No. 92, from which a hickory 6 in. dia. bears N. 35 W. 14 links dist., and a post oak 6 in. dia. bears N. 73 W. 17 links dist., and a pine 20 in. dia. bears S. 45 W. 27 links dist.; thence N. 180 poles to cor. on a locust on top of a ridge; thence W. 105 poles to cor., fallen, cor. on a black gum; thence S. 180 poles to corner on a hickory on a small branch; thence E. 105 poles to the beginning, containing one hundred and eight acres. "The beginning of this tract is in the line of No. 95, being N. from S. W. cor. 164 poles."

48. Tract number ninety-five, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning on a black gum in a small branch, from which a white oak 6 in. dia. bears N. 78 E. 20 links dist., and a dogwood 6 in. dia. bears S. 65 E. 25 links dist., and a white oak 6 in. dia. bears S. 81 W. 34 links dist.; thence N. 39 W. 250 poles to cor. No. 2, a b. oak on top of ridge; thence W. 124 poles to corner, a stake, corner on a hickory in line of No. 93; thence S. with the line of No. 93 98 poles to the beginning cor. of No. 93, reaching cor. at 260 poles, a black jack (cut down) cor. on a black jack, corner 3; thence N. 81 E. 158 poles to cor. on top of hill, corner on a hickory, corner 4 (formerly a b. jack); thence N. 68 E. 138 poles to the beginning, containing three hundred and thirty-one acres.

49. Tract number one hundred and five, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a hickory in a cove (fallen) in a line of No. 115, cor. on a white oak, from which a white oak 20 in. dia. bears N. 85 E. 18 links dist., and a b. oak 9 in. dia. bears N. 10 E. 46 links dist.; thence N. 69 E. 90 poles to cor. on a maple; thence S. 21 E. 130 poles cor. on a pine N. E. cor. of No. 10; thence S. 69 W. with the line of No. 101, 90 poles to N. W. cor. of 101 on top of a hill, a pine (fallen) cor. on a black gum; thence N. 21 W. with the lines of Nos. 102 and 115, 130 poles to the beginning, containing seventy-three acres.

50. Tract number one hundred and fifteen, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning on a

chestnut oak in the head of a hollow, from which a chestnut 24 in. dia. bears S. 60 E. 50 links dist., and a chestnut 36 in. dia. bears N. 80 W. 50 links dist.; thence N. 21 W. 100 poles to a pine; thence N. 69 E. 100 poles to corner, a stake, cor. made on a white oak; thence S. 21 E. 100 poles to corner on a chestnut oak, corner of No. 102; thence S. 69 W. 100 poles with the line of No. 102 to the beginning, containing sixty-two acres.

51. Tract number one hundred and sixteen, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning on a pine, N. W. cor. of No. 115, from which a white oak 8 in. dia. bears N. 8 W. 40 links distant, and a b. oak 16 ins. dia. bears S. 10 E. 50 links distant; thence S. 69 W. 90 poles to a b. jack on top of a ridge (formerly) a stake; thence S. 21 E. 100 poles to a stake; thence N. 69 E. 90 poles to corner, the beginning of No. 115; thence N. 21 W. with the line of No. 115, 100 poles to the beginning, containing fifty-six acres.

52. The strip of land adjoining the Qualla boundary or reserve on the south, in Jackson Co., N. C., known as the "Thomas 500-acre survey," beginning at a post set by M. S. Temple, U. S. deputy surveyor, at the ford of Soco Creek, and running thence easterly along the water divide of the ridge S. of Soco Creek until it intersects the Indian boundary at the top of said range opposite Echota mission, and including all the land between the said water divide and the Indian boundary, bounded and more particularly described as follows, viz: & beginning at a locust post at the ford of Soco Creek, on the N. W. bank of said creek, where the road leading from Birdtown to Quallatown crosses said creek, said post being N. 3 W. 2 poles from the edge of the water; thence S. 3 E. 21 poles to a stake 12 links N. of a large red oak marked I. B.; thence S. 19 E. 13 poles; thence S. 45 E. 17 poles; thence S. 61 E. 16 poles; thence N. 76 E. 29 poles to 66-mile station in a mound in line of Indian boundary, continue N. 76 E. 34 poles; thence S. 39 E. 18 perches; thence S. 36 W. 22 poles to a small b. oak, I. B.; thence S. 16 W. 18 poles, two sourwoods I. B. on the side of a ridge; thence S. 39 E. 56 poles; thence S. 51 E. 11 poles, set a post for 66½-mile station in mound with pits, continue S. 51 E. 24 poles; thence S. 89 E. 25 poles; thence S. 89 E. 7 poles to a post I. B.; thence N. 86 E. 32 poles leave field; thence N. 86 E. 28 poles; thence N. 57 E. 43 poles, set a post for 67-mile station in mound with pits, continue N. 57 E. 16 poles; thence S. 64 E. 40 poles; thence S. 79 E. 9 poles to a white oak 22 in. dia., marked I. B.; bear cor. 11 poles to a stake and rock on side of a mountain; thence S. 19 E. 16 poles; thence S. 84 E. 57 poles to a white oak 16 in. dia., I. B. bear cor., 10 poles to a post 67½-mile station, continue S. 84 E. 52 poles; thence N. 71 E. 17 poles, b. oak 27 in. dia., I. B.; thence N. 71 E. 23 poles; thence N. 45 E. 54 poles to a rock, formerly a white oak; thence S. 77 E. 14 poles 68 mile station post, continue S. 77 E. 24 poles; thence N. 76 E. 20 poles to a road leading from Waynesville to Quallatown, bear cor. 16 poles to a rock; thence S. 49 E. 14 poles; thence N. 76 E. 75 poles, a chestnut 16 in. dia., I. B. bear cor. 11 poles 68½-mile station post; continue N. 76 E. 94 poles; thence S. 74 E. 66 poles 69 mile station post; continue S. 74 E. 26 poles to a b. oak 36 in. dia., I. B. bear cor., 23 poles to a brook 5 links wide, bear cor. 55 poles to a small red oak on side of a mountain, former call 3 pines; thence S. 44 E. 56 poles, post of 69½-mile station, continue S. 44 E. 137 poles to a small chestnut on side of mountain; thence S. 87 W. 25 poles post, 70-mile station; continue thence S. 87 W. 160 poles post 70½-mile station; thence S. 87 W. 160 poles post of 71-mile station, continue S. 87 W. 45 poles to a small white oak N. 77 W. 115 poles, post of 71½-mile station, continue N. 12 W. 41 poles; thence W. 22 poles to a road running from Waynesville to Quallatown; thence W. 97 poles, post of 72 mile station, continue S. 60 W. 28 poles to a post oak 26 in. dia. I. B.; thence S. 35 W. 37 poles to a white oak 26 in. dia. I. B. bear cor. 9 poles to a sourwood in the Meggs and Freeman line. Closing, beginning on a double white oak on top of a divide in old boundary-line, from which a post oak 7 in. dia. bears S. 42 W. 14 links dist. and a b. oak 6 in. dia. bears N. 40 E. 11 links dist. Here leave the boundary-line S. 34 E. 40 poles to a post oak on the divide; thence S. 44 E. 164 poles to a white oak on top of a high knob; thence N. 77 E. 50 poles to a Spanish oak on divide; thence N. 56 E. 23 poles to a Spanish oak on top of divide; thence N. 83 E. 24 poles, set a post on top of a knob from which a Spanish oak 6 in. dia., bears S. 73 W. 42 links dist., and a Spanish oak 14 in. dia., bears N. 50 E. 34 links dist.; thence N. 28 E. 10 poles to a small b. oak on top of divide; thence N. 83 E. 41 poles to a b. oak on top of divide near where the boundary-lines crosses the divide; thence S. 50 E. leaving divide 143 poles to a small white oak near L. L. Sherrill's house; thence S. 22 E. 20 poles to a small sourwood, cor. of old boundary and Meggs and Freeman's line. This tract contains four hundred and one and one-quarter acres after deducting the number of acres of land within this tract awarded by Barringer, Dillard, and Ruffin, arbitrators (in the suit of the Eastern Band of Cherokees vs. W. H. Thomas *et al.*, in the U. S. circuit court for the western dist. of North Carolina, at November term, 1874), to the heirs of Charlie Hornbuckle, Chu-lo-gu-lah (or Cloud), Sa lo-lu-netah (or Young Squirrel), Wilson Reed, and Jennie Reed, according to the survey of said individual tracts in 1875, by M. S. Temple, U. S. deputy surveyor, and embraced in

his report to the Commissioner of the U. S. General Land Office dated January 13, 1876

53. The land awarded to "Too-nah-lu-yah" (this is Too-nah-lu-keh or "Stump"), situate on San-teet-la Creek and known as the "Stump tract," in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning at a hickory in the line of No. 20 running N. 100 poles to a hickory; thence west 160 poles to a stake; thence south 100 poles to a stake in the line of No. 8, then with that line east 160 poles to beginning, containing one hundred acres.

54. The land embraced in State grant No. 1747, in district number nine, in Graham Co., N. C., on the waters of Snowbird Creek, bounded and more particularly described as follows, viz: Beginning on a large chestnut in the line of No. 362 and runs N. 53 W. 180 poles to a stake; thence S. 80 poles to stake; thence S. 53 E. 180 poles to a stake; thence N. 90 poles to the beginning, containing one hundred acres.

55. The lot or tract of land joining the lands of Mercer Fain on the N. side of Valley River, being tract No. 16, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a locust on top of mountain between Valley River and Hanging Dog in the line of No. 15, from which a hickory 12 in. dia., bears N. 15 W. 11 links dist., and a b. oak 16 in. dia. bears N. 32 E. 38 links dist.; thence W. 15 poles to a chestnut oak, cor. 2, thence N. 160 poles to a stake, cor. on a chestnut, cor. 3; thence E. 75 poles to a sourwood N. W. cor. of No. 14; thence S. with the line of No. 14 160 poles to cor.; thence W. with the line of No. 15 sixty poles to beginning, containing seventy-five acres.

56. One tract of six hundred and forty acres lying on the south side of the Tennessee River at the Culbertson Ford in Swain Co., N. C., bounded and more particularly described as follows, viz: Beginning on black oak on bank of river 4 poles below the Ft. Lindsay Ford, running thence with the old treaty line S. 65 E. 92 poles to a turn; thence S. 35 E. 66 poles to a turn on the ridge; thence S. 25 W. 24 poles to a turn; thence S. 75 E. 76 poles to a turn in the ridge; thence S. 40 E. 24 poles to a turn in the ridge; thence N. 50 E. 36 poles to a turn; thence S. 70 E. 48 poles to a turn; thence S. 25 E. 34 poles to a Spanish oak on the said treaty line; thence N. 50 E. 100 poles to a turn; thence S. 45 E. 360 poles to a stake on said line; thence N. 370 poles to a stake bank of Tennessee River; thence down said river with its meanders 590 poles to the beginning, containing six hundred and forty acres, be the same more or less, according to a survey made in 1838.

57. One fifty-acre tract lying on the east side of Newton's Mill Creek joining lands of Uriah Cooper and the Qualla boundary, in Swain Co., N. C., bounded and more particularly described as follows, viz: Beginning on the E. bank of said creek at a white oak sapling on line of No. 89; thence E. with said line of No. 89 85 poles to a hickory; thence N. 30 E. 52 poles to a white oak on the side of a ridge cor. of No. 91; thence N. with line of No. 91 58 poles to a hickory; thence E. 86 poles to a maple on the E. bank of said Newton's Mill Creek; thence down with the meanders of the creek to the beginning, containing fifty acres.

58. One piece or parcel of land in the Cathcart or Brown entry outside of the Qualla boundary and joining the same, in Swain Co., N. C., bounded, more particularly described, as follows, viz: Beginning at the post where the northwest line of the Cathcart or Brown survey crosses the Qualla boundary line, said post being N. 60 W. 5 chains and 37 links from the 34th-mile station in the Qualla boundary line, from which a white oak 15 in. dia. bears N. 50 E. 20 links dist., and a Spanish oak 6 in. dia. bears S. 60 W. 29 links dist.; a white oak 12 in. dia. bears S. 36 links dist.; a chestnut 6 in. dia. bears S. 10 E. 27 links dist.; a Spanish oak 6 in. dia. bears S. 40 E. 25 links dist.; a locust 6 in. dia. bears N. 28 links dist.; thence S. 47½ W., formerly S. 45 W. 562 poles with said Cathcart line to a stake in said line; thence S. 42½ east 575 poles to the Qualla boundary line between the 37 and 36½ mile stations in said line; thence in a northerly direction with the said Qualla boundary line to the beginning, containing twelve hundred and thirty (1,230) acres.

59. One tract embracing the "Amanda Gaither Cove," joining Seroop Enloe and W. H. Thomas' lands and Qualla boundary in Jackson Co., N. C., bounded and more particularly described as follows, viz: Beginning at a post on top of the ridge which forms the western boundary of said cove at the point where Ah-ma-cha-na's line crosses said ridge running S. 22 E. 24 poles to a chestnut oak corner of I. B., passing 63½ mile station at 3 poles; thence S. 40 E. 24 poles to a Spanish oak cor. I. B.; thence S. 16 W. 62 poles to a locust corner of I. B.; then S. 43 W. 60 poles to a b. oak, passing the 63 mile station at 52 poles; then with the top of main mountain S. 40 E. 49 poles to a hickory on top of mountain; then down the ridge which forms the eastern boundary of said cove N. 63 E. 20 poles to a stake N. 88 E. 14 poles to a large c. oak N. 52 E. 36 poles to S. oak; then N. 50 E. 56 poles to a b. gum, N. 27 E. 20 poles to a stake; then S. 78 E. 12 poles to a S. oak, N. 72 E. 10 poles to a c. oak in Enloe's line; then with his line N. 34 W. 64 poles to a locust; then N. 45 E. 42 poles to a S. oak in I. B., crossing Soco at poles; then with I. B. N. 60 W. 82 poles to a post I. B.; then W. 6 poles to a stake crossing Soco; then down said creek as it meanders N. 55

W. 48 poles to the mouth of said creek; then down Ocona Luffy River 58 poles to a watered oak corner of I. B.; then S. 28 E. 60 poles to a white walnut; then S. 28 W. 21 poles to a white oak; then S. 40 E. 10 poles to a S. oak; then S. 14 E. 6 poles to the beginning, containing one hundred and twenty-eight acres.

60. One tract known as the "Thomas Mill Tract," lying across Soco Creek, joining Qualla boundary, in Jackson Co., N. C., bounded and more particularly described as follows, viz: Beginning at a black oak on the ridge between Soco Creek and Ocona-Luffy River at a point where Scroop Enloe's line intersects the Indian boundary, and running with the boundary line 80 poles to a Spanish oak on the top of ridge, passing the 65 mile station at 26 poles; then with the top of said ridge N. 12 E. 38 poles to a stake; then N. 45 E. 18 poles to a stake corner of I. B.; then S. 70 E. 36 poles to a sycamore on the west bank of Soco Creek; then up the creek N. 25 E. 16 to the 65 $\frac{1}{2}$ mile station; then E. 34 poles to a post at the ford of Soco; then S., crossing the creek, 70 poles to a S. oak on top of a knob corner of I. B. S. 22 E. 10 poles to a stake; then S. 60 E. 40 poles to corner of I. B.; then S. 65 W. 21 poles to the beginning, containing forty-three acres.

61. Entry five hundred and sixty, known as the "3,200-acre tract," lying on the S. side of the Tuckasee River, in Swaine Co., N. C., joining lands of Abel Hyatt Willgeeske's heirs, John Cooper, James Gibbs, and others, bounded and more particularly described as follows, viz: Beginning on a black walnut on the bank of a branch on the S. of Tuckasee River opposite Mark Coleman's; runs thence N. 30 W. 72 poles to a white walnut on the bank of the river at the mouth of the falls branch, passing the falls at 20 poles; thence up with the meanders of Tuckasee River on the S. side 980 poles to a water birch on the bank; thence N. 80 E., crossing the river 12 poles to a black gum on the N. bank, 18 poles below the falls at the upper end of J. M. Bird's farm; thence up with the meanders of the N. side 320 poles to a Spanish oak on the bank opposite a large island in the river; thence S. 20 E. crossing the river 20 poles to a large maple on the S. side of said river, the lower cor. of No. 19, Gibb's corner; thence with Gibb's line 274 poles to a large pine in the line of No. 90; thence with that tract N. 55 W. 20 poles to a Spanish oak in a hollow; thence S. 15 W. 146 poles to a locust, passing three small branches; thence with the line of No. 91 S. 90 poles to a dogwood on the side of a hill; thence E. 22 poles to a birch at the S. W. corner of No. 91; thence S. 31 E. 176 poles to a white oak, the N. E. cor. of No. 1525; thence with said tract S. 70 W. 30 poles to a Spanish oak; thence S. 60 W. 156 poles to a stake cor. of 1525; thence S. 13 E. 234 poles to a Spanish oak cor. of two tracks, Nos. 95 and 97; thence N. 55 W. 200 poles to a scrubby chestnut oak near the top of a ridge; thence S. 75 W. 98 poles to a Spanish oak on a ridge; thence S. 30 W. 60 poles to a hickory; thence S. 48 E. 35 poles to a large chestnut near a branch, the beginning of No. 97; thence S. 65 W. 40 poles to a maple; thence S. 10 W. 80 poles to a Spanish oak in a cove; thence S. 75 E. 72 poles to a small black oak on a ridge; thence S. 40 W. 96 poles to a scrubby Spanish oak on top of a mountain; thence S. 85 W. 136 poles to a small black oak on the top of a ridge; thence S. 30 W. 106 poles to a black oak on top of a ridge on a cliff known as the Rattlesnake Den; thence S. 15 W. 40 poles to a chestnut on a ridge in the old county line between Jackson and Macon; thence with the said old county line 820 poles to a small black oak on the top of the mountain S. 25 W. from Britton Medlin's, passing the Sherrill Gap at 650 poles; thence leaving the old county line, running around lands of Brit. Medlin, Shuler, and Brendle, leaving them on the outside, N. 74 poles to a Spanish oak on the top of a ridge; thence N. 24 E. 58 poles to 3 large pines on the top of a ridge; thence N. 5 E. 155 poles to a large white oak near the top of a ridge; thence N. 75 E. 36 poles to a Spanish oak on a ridge; thence E. 72 poles to a large black oak in Johnson Kirkland's line; thence S. 70 E. with Kirkland's line 32 poles to a poplar, Kirkland's corner; thence N. 25 E. 50 poles to a stake; thence S. 55 E. 34 poles to a scrubby hickory on mountain side in Wm. Kirkland's line; thence with that line W. 22 poles to a pine to Kirkland's corner; thence S. 64 poles to a pine; thence E. 126 poles to a bunch of small lynnson on the creek bank; thence N. 64 poles to a small hickory and Spanish oak; thence W. 32 poles to a locust, beginning cor. of James Kirkland; thence N. 45 E. with James Kirkland's line 35 poles to a Spanish oak on the creek bank; thence S. 40 E. 144 poles to a large chestnut oak; thence N. 45 E. 128 poles to a black oak; thence N. 40 W. 68 poles to a Spanish oak; thence N. 85 E. 120 poles to a pine; thence N. 24 W. 105 poles to a black oak, corner of 1173, on the bank of a creek, in the line of No. 1172; thence with tract No. 1173 S. 75 E. 173 poles to a stake; thence N. 84 E. 63 poles to a stake; thence N. 58 W. 74 poles to two chestnut oaks; thence N. 58 W. 62 poles to a hickory; thence W. 30 poles to a chestnut oak; thence N. 90 poles to a black oak in a hollow; thence W. 68 poles to a small black oak in a hollow, cor. of tract No. 4825; thence with the line of that tract N. 52 poles to a small hickory; thence N. 45 W. 14 poles to a white oak below Baggs' Cove; thence N. 26 E. 66 poles to a large ash on the S. bank of Tuckasee River; thence up with the meanders of the river 64 poles to a bellwood; thence S. 31 E. 73 poles to the beginning, containing two thousand seven hundred and eighty acres. In this conveyance it is intended to convey only

the lands embraced in said entry No. 560 agreeably to the State grant and survey thereof, which excluded deeded lands defined by metes and bounds within the boundary of said entry which belong mostly to the persons named above as owning joining lands, comprising eleven tracts, embracing 1,009½ acres; then also excluding (320) three hundred and twenty acres from said entry No. 560, a survey of which has been ordered by the superior court of Swaine Co., N. C., to use and benefit of Sarah A. Burchfield, which said court confines to 320 acres joining Abel Hyatt's lands within the boundary of the grant from the State; also excluding one hundred acres on both sides of Skeekee's Branch, awarded by Barringer, Dillard, and Ruffin, arbitrators, October 23, 1874, to the heirs of an Indian named Littlejohn, leaving of said entry No. 560 two thousand seven hundred and eighty acres, and embraced in this indenture as aforesaid.

62. Tract number six, in district number twelve, in Swaine County, N. C., bounded and more particularly described as follows, viz: Beginning on a post oak the S. W. cor. of No. 4 and runs S. 8 W. 110 poles to a black oak in the gap of a ridge; thence S. 42 E. 54 poles to a pine on the bank of Tennessee River; thence down the meanders of the river to persimmon on the bank of the river the upper corner of No. 3; thence N. 8 E. with that line 119 poles to a white oak; thence N. 82 W. 92. poles to the beginning, containing seventy-three acres.

63. Tract number nine, in district number twelve, in Swaine Co., N. C., bounded and more particularly described as follows, viz: Beginning on a post oak the N. W. cor. of No. 8 and runs S. 82 E. 166 poles to a stake on the bank of the Tennessee River; thence up the river to a stake, the lower corner of No. 4; thence S. 8 W. 73 poles to a Spanish oak; thence N. 82 W. 220 poles to a black oak; thence N. 8 E. 115 poles to the beginning, containing one hundred and thirty acres.

64. Tract number ten, in district number twelve, in Swaine Co., N. C., bounded and more particularly described as follows, viz: Beginning on a white oak the N. W. cor. of No. 7 and runs N. 82 W. 80 poles to a Spanish oak; thence N. 8 E. 102 poles to a pine; thence S. 82 E. 80 poles to a stake and pointers, N. W. cor. of No. 9; thence S. 8 W. 102 poles to the beginning, containing fifty-one acres.

65. Tract number eleven, in district twelve, in Swaine Co., N. C., bounded and more particularly described as follows, viz: Beginning on a post oak and runs N. 82 W. 80 poles to a turkey oak; thence S. 8 W. 132 poles to a stake; thence S. 82 E. 80 poles to a Spanish oak, the S. W. cor. of No. 10; thence N. 8 E. 132 poles to the beginning, containing sixty-six acres.

66. Tract number thirteen, in district number twelve, in Swaine Co., N. C., bounded and more particularly described as follows, viz: Beginning on a beach on the S. E. bank of Tennessee River near the lower point of an island and runs S. 8 W. 42 poles to a black oak; thence S. 84 E. 42 poles to a black oak; thence S. 8 W. 33 poles to a black oak; thence S. 79 E. 68 poles to a chestnut on W. bank of Nantahala River 18 poles above its mouth; thence down the river passing its junction to the beginning, containing fifty-eight acres.

67. Tract number forty-one, in district number twelve, in Swaine Co., N. C., bounded and more particularly described as follows, viz: Beginning on a maple on N. W. bank of Nantahala River at the lower point of an island and runs S. 46 W. 124 poles to a chestnut S. E. cor. of No. 40; thence S. 61 E. 120 poles to a stake; thence N. 19 E. 70 poles to a Spanish oak on the bank of river; thence down the main northern sluice of the river to the beginning, containing sixty-five acres.

68. Tract number forty-four, in district number twelve, in Swain Co., N. C., bounded and more particularly described as follows, viz: Beginning on a chestnut S. E. cor. of No. 40, and runs S. 29 W. 160 poles to a Spanish oak; thence N. 61 W. 66 poles to a black gum; thence N. 29 E. 160 poles to a locust on the line of No. 40; thence S. 61 E. 66 poles to the beginning, containing sixty-six acres. The said several tracts hereinbefore mentioned containing in the aggregate fifteen thousand two hundred and eleven and one-fourth acres more or less.

Together with all the improvements, ways, easements, rights, privileges, appurtenances, and hereditaments to same belonging or in anywise appertaining, and all the remainders, reversions, rents, issues, and profits thereof; all the estate, right, title, interest, claim, and demand whatsoever, either at law or in equity, of the said parties of the first part, of, in, to, or out of the said pieces or parcels of land and premises; to have and to hold the said pieces or parcels of land and premises, with the appurtenances, unto the said party of the second part, the Commissioner of Indian Affairs and his successors in office, as trustee for the use and benefit of the Eastern Band of Cherokee Indians of the State of North Carolina forever; and the said William Johnston and his wife, Lucinda M. Johnston, for themselves, their heirs, executors, and administrators, do hereby covenant, promise, and agree to and with the said party of the second part that they and their heirs shall and will warrant and forever defend the said pieces or parcels of land and premises and appurtenances free and discharged from the lawful claims of all parties claiming the same by, through, or under them, or either of them, and no further; and the said William

L. Hilliard, as guardian aforesaid, does hereby convey all the right, title, and interest of the said William H. Thomas in and to said lands, and does hereby covenant, promise, and agree that he will warrant and forever defend the said pieces or parcels of land free and discharged from all claims of all persons claiming same by, through, or under him or said Thomas and his heirs, so far as he is authorized and required by virtue of his office as guardian under said order of the probate court of Jackson Co., N. C., and no further, and the said James W. Terrell and Thomas D. Johnston, for themselves as commissioners under the aforesaid award and order of court, and also as agents and attorneys as aforesaid, hereby covenant, promise, and agree that they will warrant and forever defend the said pieces or parcels of land free and discharged from the claims of all persons claiming same by, through, or under them, so far as they are authorized and required to do by virtue of their offices as commissioners and agents and attorneys aforesaid, and no further.

In testimony whereof the said parties of the first part have hereunto set their hands and seals this 14th day of August, A. D. 1880.

WM. JOHNSTON. [SEAL.]

LUCINDA M. JOHNSTON. [SEAL.]

W. L. HILLIARD, *Guardian*. [L. B.]

JAS. W. TERRELL,

Comm'r and Attorney for W. H. Thomas.

THOS. D. JOHNSTON, [SEAL.]

Comm'r & Att'y for W. H. Thomas.

In probate court.

NORTH CAROLINA, Buncombe Co.:

I, E. W. Herndon, probate judge for county and State aforesaid, do hereby certify that William Johnston and wife, Lucinda M. Johnston, and William L. Hilliard, guardian of William H. Thomas, as aforesaid, of Buncombe Co., State of North Carolina, personally appeared before me this 14th day of August, 1880, and acknowledged the due execution of the annexed deed of conveyance, and the said Lucinda M. Johnston, being by me privately examined, separate and apart from her said husband, touching her voluntary execution of the same, doth state that she signed the same freely and voluntarily, without fear or compulsion of her said husband, or any other person, and that she doth still voluntarily assent thereto. Also, at the same time and place, personally appeared before me James W. Terrell, of Jackson Co., N. C., and Thomas D. Johnston, of Buncombe Co., N. C., commissioners and attorneys as aforesaid, and acknowledged the due execution of the annexed deed of conveyance. Therefore, let the same, with this certificate, be registered. Given under my hand and official seal.

[SEAL.]

E. W. HERNDON,
Judge of Probate.

In the probate court.

SWAIN COUNTY:

It is adjudged that the foregoing certificate of probate by E. W. Herndon, probate judge of Buncombe County, is correct and genuine. Therefore, let the deed, with the certificate of probate, be registered in Swain County. This Sept. 11th, 1880.

SAM. B. GIBSON,
Probate Judge.

REGISTER'S OFFICE OF SWAIN COUNTY, NORTH CAROLINA.

I, T. H. Parrish, register of deeds for said county, do certify that the foregoing deed, with certificates of probates, was duly registered in this office in book "B," No. "2," beginning on page 342, and ending on page 375, this the 14th day of Sept., A. D. 1880.

T. H. PARRISH,
Register of Deeds for said County.

In the probate court.

STATE OF NORTH CAROLINA, Jackson County:

I, A. M. Parker, probate judge and clerk superior court of Jackson County, do adjudge from the certificate and seal of E. W. Herndon, clerk and probate judge of Buncombe County, North Carolina, to be correct. Therefore, let this deed with the certificates be registered this 1st day of October, 1880.

A. M. PARKER,
Probate Judge.

OFFICE OF REGISTER OF DEEDS, Oct. 7, 1880.

STATE OF NORTH CAROLINA, *Jackson County*:

The within deed and certificates were this day duly registered on pages 374 to 403 inclusive, book G.

A. J. LONG,
Register of Deeds.

OFFICE JUDGE OF PROBATE.

NORTH CAROLINA, *Graham County*:

It is adjudged that the foregoing certificate of probate by E. W. Herndon, probate judge of Buncombe County, is correct and genuine.

Therefore, let the said deed together with certificates of probate be registered in our county of Graham.

JOHN G. TATHAM,
Probate Judge, Graham County.

OFFICE OF REGISTER OF DEEDS.

NORTH CAROLINA, *Graham County*:

I, W. F. Manney, reg. of deeds for and in said county of Graham, certify that the foregoing deed of conveyance together with certificates were duly registered in the register's office, in said county of Graham, in book B, commencing on page 1st and ending on page 32.

This October the 29, 1880.

W. F. MANNEY,
Register of Deeds, Graham County.

OFFICE OF JUDGE OF PROBATE, November 1, 1880.

STATE OF NORTH CAROLINA, *Cherokee County*:

I, Jas. C. Axley, judge of probate in and for said county, do hereby adjudge that the foregoing deed is duly acknowledged.

Therefore let the same be registered.

Given under my hand at office in Murphy, the date above written.

JAS. C. AXLEY,
Judge of Probate.

The foregoing deed and certificates came to hand November the 1st, 1880, and were registered in book R, beginning on the page number 28, and ending on page 62.

J. W. HENNESO,
Register of Deeds, Cherokee County.

EXHIBIT E.

Whereas under an award made by Rufus Barringer, John H. Dillard, and Thomas Ruffin, arbitrators in the case of the "Eastern Band of Cherokee Indians *against* William H. Thomas, William Johnston, *et al.*," in the circuit court of the United States for the western district of North Carolina, James W. Terrell and Thomas D. Johnston were, by a decree of said court, appointed commissioners to sell certain lands referred to us in said award to discharge and pay off the judgments therein awarded to be due William Johnston and William H. Thomas, which said lands had theretofore been sold under executions on said judgments and conveyed by deeds executed by the sheriff of the counties of Cherokee, Macon, and Jackson, to said William Johnston; and whereas since the date of said decree said judgments have been purchased by and duly assigned to the Commissioner of Indian Affairs of the United States in trust and for the benefit of the Eastern Band of Cherokees, and on the 14th day of August, A. D. 1876, an act of Congress was past and ratified authorizing the Commissioner of Indian Affairs to purchase and receive certain lands therein referred to in full payment and final discharge of the aforesaid judgments in trust and for the use and benefit of said Eastern Band of Cherokees; and whereas in pursuance to the provisions of said act of Congress, Mark C. King, on the part of the Commissioner of Indian Affairs, and William A. Dill, on the part of Wm. H. Thomas, were selected as appraisers to value and appraise the lands hereinafter described which are referred to in the aforementioned award and were duly selected by said Eastern Band of Cherokees through committee appointed by them at their annual general council held at Cheoah council grounds, in Graham County, North Carolina, on the first Monday of October, A. D. 1876, said appraisals being ratified and approved by the said "the Commissioner of Indian Affairs:"

Now, therefore, in consideration of the above recited facts and in satisfaction of the said judgments, amounting at this date to twenty thousand five hundred and sixty-one and 85-100 dollars, the following indenture is executed:

This indenture, made and executed this the 9th day of October, A. D. 1876, between William Johnston and wife, Lucinda M. Johnston, of the county of Buncombe, State of North Carolina, and James W. Terrell, of Jackson County, and Thomas D. Johnston, of Buncombe County, State aforesaid, commissioners named in said award and agents and attorneys for William H. Thomas, by virtue of a power of attorney to them, dated the 3rd day of June, 1875, a copy of which is hereto annexed, of the first part; and the Commissioner of Indian Affairs, as trustee for said Eastern Band of Cherokee Indians, of the second part, witnesseth:

That the said parties of the first part, in consideration of the premises and in the further consideration of the payment of the amount and final discharge of said judgments, the receipt whereof is hereby confessed and acknowledged, have bargained, sold, remised, released, and quit-claimed, and by these presents do bargain, sell, remise, release, and quit-claim to the party of the second part as trustee for the Eastern Band of Cherokee Indians of the State of North Carolina, all their right, title, interest, claim, or demand whatsoever, in and to the following described lands, to wit:

In Graham County, North Carolina, district number nine, grant number ninety-six containing 228 acres, more or less.

2. Grant number eighty-six, containing 138 acres, more or less.
3. Grant number ninety, containing 141 acres, more or less.
4. Grant number one hundred, containing 138 acres, more or less.
5. Grant number eighty-seven, containing 180 acres.
6. Grant number eighty-nine, containing 50 acres.
7. Grant number seventy-nine, containing 60 acres.
8. Grant number seventy-six, containing 140 acres.
9. Grant number ninety-four, containing 204 acres.
10. Grant number seventeen, containing 118 acres.
11. Grant number ninety-five, containing 222 acres.
12. Grant number seventy-seven, containing 166 acres.
13. Grant number seventy-five, containing 137 acres.
14. Grant number ninety-one, containing 229 acres.
15. Grant number eighty-eight, containing 100 acres.
16. Grant number one hundred and two, containing 269 acres.
17. Grant number ninety-two, containing 120 acres.
18. Grant number eighty-one, containing 202 acres.
19. Grant number forty-seven, containing 68 acres.
20. Grant number twenty-nine, containing 65 acres.
21. Grant number one hundred and three, containing 105 acres.
22. Grant number three hundred and sixty-nine, containing 100 acres.
23. Grant number twenty, containing 225 acres.
24. Grant number eighteen, containing 91 acres.
25. Grant number one hundred & one, containing 151 acres.
26. Grant number fifty-five, containing 50 acres.
27. Grant number thirty-seven, containing 76 acres.
28. Grant number twenty-five, containing 346 acres.
29. Grant number nine, containing 269 acres.
30. Grant number twenty-two, containing 400 acres.
31. Grant number thirteen, containing 303 acres.
32. Grant number two, containing 227 acres.
33. Grant number fifteen, containing 275 acres.
34. Grant number three, containing 254 acres.

In district number ten (10):

35. Grant number eight, containing 400 acres.
36. Grant number one, containing 262 acres.
37. Grant number five hundred and eighty-four, containing 100 acres.
38. Grant number four hundred and eighty-two, containing 100 acres.
39. Grant number three hundred and eighty-nine, containing 100 acres; amounting in the aggregate to six thousand eight hundred and nine acres in the county of Graham.

In Jackson County, the following lands:

40. The strip of land adjoining the Qualla boundary on the south, beginning at a post set by M. S. Temple, surveyor, at the ford of Soco Creek, running thence easterly along the water divide of the ridge, south of Soco Creek, until it intersects the Indian boundary at the top of said ridge, opposite Echota Mission, and including all the lands between the said water divide and the present Indian boundary, containing 700 acres, more or less.

In Cherokee County:

41. The lot in Cherokee County, on the headwaters of Valley River, now occupied by Eli Ingram, containing 100 acres, more or less.

42. Also a lot in such county adjoining the lands of Messrs. Fair, on the north side of Valley River, in district number six, containing one hundred acres, more or less.

43. Also three thousand and fifty-two acres of land lying on the waters of Valley River and Vengeance Creek, comprising tracts to be hereafter surveyed, and so as to embrace the lands occupied by Johnson Greybeard and Nancy and Rose Hawkins. The above being the lands selected by the Indians and described in the report of the appraisers; also the following lands mentioned in the aforesaid award, to wit:

44. In Cherokee County, the lands occupied by the Indian Chinaque or John Owl, containing 100 acres.

45. The lands occupied by Richard Henson and others and their heirs, containing 210 acres.

46. Lands occupied by Richard Henson and others, containing one hundred and fifty-seven acres.

47. Lands occupied by Richard Henson and others and their heirs, containing 2,700 acres.

The last three tracts being Dist. No. 5, and comprising what is known as the "Henson Donation."

In Graham County, the following lands:

48. Lands occupied by Dickageeskin's heirs, containing 100 acres, being section 367, in district nine.

49. Lands occupied by Ootalkanah, section three hundred seventy-three, in district nine, containing one hundred acres.

50. Lands occupied by Two-way-allah, part of number twelve, in district No. 10, containing 100 acres.

51. Lands occupied by Cornsilk, section five hundred and eighty-eight, in district nine, containing 100 acres.

52. Lands of Tracking Wolf, section four hundred and four, district No. 9, containing 83 acres.

53. Lands of Salkanah and others, district number six, containing eighty acres.

54. Lands of Ter-a, tees-kah, in district No. nine, containing 100 acres.

55. Lands of George Ooyahsteah, section 365, in district No. 9, containing 100 acres.

56. Lands of Cah-nah-a-to-go and others, section 405, in district No. 9, containing 100 acres.

57. Lands of Coheloskah, section 93, in district No. 9, containing 120 acres.

58. Lands of Too-nah-lee-yah, in district nine, containing 100 acres.

59. Lands of Cheesquenetak, in district nine, containing 100 acres.

60. Lands of Te-tal-kanah, in district nine, containing 100 acres.

The aggregate number of acres of lands described in said award being four thousand four hundred and fifty, and lying in Cherokee and Graham Counties.

To have and to hold the aforesaid lands and premises, with all the appurtenances thereunto belonging, to the said "the Commissioner of Indian Affairs" and his successors in office, as trustee for the use and benefit of the Eastern Band of Cherokee Indians of North Carolina forever; and the said William Johnston and Lucinda M. Johnston do covenant to and with the party of the second part, that they will warrant and defend the interests herein conveyed by them free and discharged from the lawful claims of all parties claiming the same by, through, or under them, or either of them; and the said James W. Terrell and Thomas D. Johnston, as commissioners and agents aforesaid, do covenant that they will warrant and defend the same free from the claims of all persons claiming same by, through, or under them, so far forth as they are authorized and required to do by virtue of their offices as commissioners and agents aforesaid, and no further.

In testimony whereof the parties of the first part have hereunto set their hands and seals this the 9th day of October, A. D. 1876.

In presence of:

WM. JOHNSTON.	[SEAL.]
L. M. JOHNSTON.	[SEAL.]
JAS. W. TERRELL.	[SEAL.]
THOS. D. JOHNSTON.	[SEAL.]

In the probate court.

BUNCOMBE COUNTY:

Be it known that on this, the 9th day of October, 1876, before the undersigned, judge of probate in and for said county of Buncombe, personally came William Johnston and wife, Lucinda M. Johnston, and Thomas D. Johnston, of Buncombe County, and James W. Terrell, of Jackson County, the parties described in and who executed the foregoing deed of conveyance to "the Commissioner of Indian Affairs,"

and each duly acknowledged the execution by himself and herself of said deed for the purposes therein mentioned. And thereupon the said Lucinda M. Johnston, being by me privately examined, separate and apart from her said husband, doth declare upon such examination that she executed the same freely, voluntarily, and of her own accord, without any fear, force, or undue influence on the part of her said husband or any one else, and that she doth still voluntarily assent thereto.

Therefore let said deed and their certificate be registered.

[SKAL.]

J. E. REED,
Judge of Probate.

EXHIBIT E.

WASHINGTON, D. C., November 12, 1875.

SIR: Acting under instructions contained in office letters of the 1st and 9th of October, ultimo, respectively, we proceeded to Asheville, N. C., at which place we met Hon. R. B. Vance, M. C., with whom we were to be associated, and prepared to enter at once upon the discharge of the duty assigned to us, viz: "To appraise the lands recently recovered to the North Carolina Cherokee Indians in the State of North Carolina."

Before doing so, however, the required oath for the faithful and impartial performance of this duty, was taken and subscribed to by each member of the commission and the same forwarded from Webster, Jackson County, N. C., to your office on the 19th day of October.

We arrived at Qualla town about 1 o'clock p. m. on the 20th and on the same day, under the guidance of M. S. Temple, esq., the surveyor employed in subdividing the Qualla boundary, examined the Soco Valley.

The following day was devoted to an examination of the lands lying along the Oconaluftee River and the country about Raven's fort, returning to Qualla town by way of Bradley's fork and the Oconaluftee.

The country about Bird town and Yellow hill was examined on the 22d and on the 23d we left Qualla town, arriving at Asheville about 10 o'clock on the night of the 24th.

At the meeting of the commission on the 25th at the Bank Hotel in Asheville, and after a full and free discussion of the subject, it was found that an unanimous report could not be agreed upon.

We classify the lands contained within the Qualla boundary as follows, viz: Bottom estimated 4,000 acres, arable estimated 40,000 acres, mountain estimated 29,000 acres, and estimated to contain in all 73,000 acres.

TOPOGRAPHICAL FEATURES.

The lands embraced within the Qualla boundary are very largely mountainous, with but two streams of any importance flowing through them, the Soco and the Oconaluftee rivers; the former, a stream of about 20 feet in width, flows through a narrow valley called the Soco Valley, for about 4 or 5 miles; its sources are in the high and rugged mountains, forming the outer rim of the boundary, coming down into small rivulets to where it emerges from a canyon into the Soco Valley. It has a good rocky bottom and is a fine little stream, capable of supplying water in abundance to the entire valley. The Oconaluftee, with which the Soco unites before leaving the boundary, is a much larger stream and drains a much larger portion of said boundary. It could be relied upon as being capable of supplying the water power necessary for operating a great number of saw or flouring mills.

As yet, however, its waters have not been utilized for such purposes. The main branch of this stream, Raven's Fork, takes its rise in the main range forming the outer line of the boundary. The Soco and Oconaluftee rivers are divided by a ridge which sheds the water each way into them. There are no roads worthy of the name. The roads, so called, being little better than trails and quite unsuited to the passage over them of wheeled vehicles.

AGRICULTURAL RESOURCES.

Our examination of the valley of the Soco satisfied us that the soil had long since become exhausted from continued cultivation without the use of fertilizers, and but little of it was under cultivation. The few crops we saw were painfully scant and fairly indicated the reduced condition of the land.

We observed that some of the Indians—who stick to a locality, if it is their home, long after it has ceased to be productive—have abandoned the valley for the abrupt

hillsides bordering it, and cleared little spots in which they have planted limited crops.

The valley of the Ocona-Lufti is of more importance, in that its extent is much greater; but what we observe regarding the soil of the Soco Valley is true also of the soil of the Ocona-Lufti. We regard it as being in the worst possible condition for the growth of food crops, and the hillsides, such as can be reached, must now be sought for agricultural purposes. We are of opinion that about 90 per cent of the 4,000 (estimated) acres of bottom land are in such an impoverished condition that for many years to come they can not be made to pay expenses of cultivation, and only then after an outlay for fertilizers and skilled direction in the use of the same, much beyond the ability of the Indians to supply. Regarding the 40,000 (estimated) acres of arable "foot-hill" land we do not think that more than 30 per cent can be cultivated at all, for the reason that they are so very abrupt as not to admit of the use of the plow or other agricultural implements in their cultivation, except the hoe.

The mountains, estimated at 29,000 acres, are beyond utility except for grazing purposes, and even for that they are not generally adapted. This mountain land is all above an altitude of 5,000 feet and should any of its timber growth be of value, it certainly could not be made available for any purpose, as the character of the country is such as to render it utterly inaccessible.

TIMBER.

The timber on these lands is quite extensive, yet but little of such kinds as would prove of commercial value is within reach. The mountains contain considerable quantities of the white and black walnut, locust, white and black oak, wild cherry, birch, poplar, chestnut, white and yellow pine, and balsam. Of the former species there is not a great quantity, but of black walnut, balsam, and white and yellow pine, there are great quantities, but not available, being high up in the mountains. On the foot hills or "table lands" as they are called in that country, there is a dense growth of scrub oak and other trees; but few, if any of them, however, are of any value beyond their use for fuel. The larger trees and those of value, such as walnut and locust, have long since been cut away and little but a second or undergrowth left. This section of country was represented to us as being a fine fruit region and as possessing fine orchards at the present time. We observed a number of straggling orchards in the valleys of the Soco and Ocona-Lufti. Few of them are of less than sixty years' growth, have long been neglected, and for the most part are now practically worthless and will soon die out. Consumers of fruit from this region must look to future plantings for such supplies.

MINERAL RESOURCES.

We were also informed that the Qualla boundary abounded in valuable minerals. Whatever of these may be contained in the boundary, we beg to say that at the present time, and with the present state of development, they may be regarded as of little or no value. The rocks which prevail in the boundary are gneiss, mica schist, and quartz. Mica schist has the same constituents as granite and gneiss; in different proportions, however. It has less of feldspar and more of quartz and mica, the last generally predominating, giving it a very schistose structure and causing it to glisten.

There are some quite large exposures of quartz high up in the mountains which are found in the gneiss and mica schists. These rocks are metamorphic, and are classed under crystalline schists, and as to geological age are probably Silurian. They are widely distributed in this country, and are especially found in the Appalachians. Metaliferous deposits are not confined to the rocks or formations of any particular age, although their occurrence in the older formations is more frequent than in the new. Gold is usually found when in position in quartz veins, intersecting metamorphic rocks. Native silver occurs in veins traversing gneiss, schist, porphyry, and other rocks. The probability of finding minerals in the boundary is as follows: Minerals have been found in veins traversing metamorphic rocks and minerals may be found in various localities within the boundary, although there are many localities covered with similar rocks in which minerals of commercial value are found, at many places along the Appalachian chain, especially from Virginia southward.

Careful search, however, alone can determine whether or not valuable minerals will be found in this region. As yet, none have come to light. Should the boundary prove to contain minerals its remoteness from all existing lines of communication would be sufficient to render them comparatively valueless. The nearest railroad line is distant about 40 miles, and to reach it the traveler must pass over rugged mountain roads.

Having thus generally described the various features of the boundary, we proceed to state that in valuing the same we base our opinions upon a careful personal examination of the lands referred to. It was argued at the last meeting of the commission that we should to some extent be governed by the opinions of Messrs. Ruffin, Barringer, and Dillard, and the sheriff of Swain County, Mr. E. Everett, because the three first-named gentlemen had, in an official capacity, been at Qualla for months taking testimony as to the title to these lands, and because the latter had once assessed that portion of the boundary lying within Swain County.

We respectfully refer you to page 3 of the report (printed copy herewith) of Messrs. Barringer, Dillard, and Ruffin, sitting in Asheville as a board of arbitrators on the question of title to these lands, and who, having adjourned on the 15th of August, 1874, went to Qualla, where they found serious obstacles to their work, and returned after a few days to Waynesville, about 40 miles from Qualla, and there is no evidence that they were ever upon the lands appraised, Qualla town, their headquarters during the few days, not being within the limits of the recovered boundary. We feel obliged under the circumstances to regard the opinions of these gentlemen as entitled to no more weight than those of a great many other persons, not one of whom, by the way, had ever seen the lands—who asserted to us with a unanimity that was singular to say the least, and with a warmth of expression which, if entirely disinterested, was quite uncalled for, that the lands were worth \$200,000 at the very least. This estimate was pressed upon us by many persons in Asheville and elsewhere, nearly all of whom owned to having never made any examination of the boundary. The valuation put upon these lands by Mr. John B. Allison, of Webster, viz, \$65,000, was a piece of guess-work on his part, for he told us that he had not been over all the lands. Mr. Allison also stated to us that it was usual to assess land for taxation at two-thirds of its actual value, and that he was governed by that rate in making his assessment. Mr. James W. Terrell, who is well acquainted with the whole boundary, while acting as an assessor, a sworn officer, valued these same lands at \$37,000.

We were informed again and again that these lands cost the Indian about \$200,000 years ago, and that therefore the boundary could not well be appraised for less now. Admitting that the cost to these poor creatures was as stated, how does that prove these lands to be worth that amount? It is not going very far beyond the bounds of prudence to state that there are instances on record in which, as between a white man and an Indian, the Indian has had the worst of a bargain in a land trade, and we do not hesitate in this particular case to say that if the Eastern Cherokees paid \$200,000 for these lands they paid a very large price for a very small whistle.

Let us submit what is offered by two or three men who do know the lands in Qualla boundary.

Mr. W. C. McCarthy, special U. S. Indian agent for the Eastern Band of Cherokees, told us at Qualla that the lands in question were not worth \$50,000, and that there were none among those persons who sought to value it beyond that price who could be forced to accept the land at that price. Mr. McCarthy is tolerably well acquainted with these lands and is well informed as to their value.

Mr. W. H. Thomas, who bought for the Indians the lands comprised within the boundary, and well knowing every acre of the same, stated to us in answer to a question that he would not give \$51,000 for the lands, because they were not worth it. Mr. Thomas has lived in or near the Qualla boundary for many years.

Dr. T. K. Welch, the resident physician at Quallatown, who is also a magistrate, told us that none of the parties interested in bulling this Indian bonanza would be willing to give \$40,000 for the whole boundary, water, timber, pastures, and rich bottom lands included. Mr. Welch does not, like many others, get his information from hearsay. He has lived at Qualla for nearly twenty years, and in the practice of his profession has been over the boundary very many times. He is a gentleman of education and experience, and owning land and cultivating it for years may be presumed to know a good piece of land when he sees it.

We append to this report, with the request that it may be a part of the same, a copy of a letter to us from Mr. Welch, dated Quallatown, N. C., October 27, 1875. This letter was received here on the 5th instant, and we respectfully commend it to your attention.

We offer the opinions of these men as showing that we do not undervalue their lands.

We were told of the rich bottom lands we should find on the Oconaluftee and Soco, but there are no such lands in all the boundary. The finest piece of land in the boundary, is unquestionably the tract known as the old Holland fields—about 200 acres—and that is to-day a worn-out farm. The most of the cleared tracts on the Soco and elsewhere within the boundary have been worked by white men until the lands, receiving nothing in return, refuse to yield remunerative crops, and have long been abandoned as worthless. We forbear to mention the so-called improvements on these lands, for there is not in all the boundary enough to supply the decent demands of a single

family on the western frontier, and yet these are the lands we are assured are worth \$200,000, utterly worn out, i. e., the 4,000 acres cleared and the balance of the 73,000 acres abrupt hillside and mountain, in a state of nature, a wilderness in fact; no roads practicable for wagons, no railroad nearer than 40 miles.

We are aware of the fact, and desire to state it, that lands 20 or 30 miles from the boundary are held at good prices, \$10 to \$40 per acre; and there are lands immediately contiguous to the boundary that are held at prices varying from \$4 to \$10 per acre and some of these farms are assessed at from \$2 to \$5 per acre; but we can not regard these values as a guide to the value of land contained within the Qualla boundary. The lands held at these prices are of the choicest kinds, well improved, skilfully cultivated, and in good heart; besides this, they are highly valued as homes of the families owning them.

The Qualla boundary is estimated to contain a total of seventy-three thousand (73,000) acres, the proportions and values of which we find as follows:

Bottom, estimated 4,000 acres, at \$2 per acre, \$8,000; arable, estimated 40,000 acres, at \$1 per acre, \$40,000; mountain, estimated 29,000 acres, at 30 cents per acre, \$8,700; total number acres, 73,000; total value, \$56,700.

In closing this report we ask permission to say a word or two as to the Indians themselves. Whatever of success may come to these poor people in the way of temporal progress, much will be owing to such intelligent and honest direction as may be furnished by the Government in the person of the resident agent. These Indians are divided by dissensions among themselves regarding their tribal affairs, and we regret to say that there seems to be good ground for the suspicion that this condition of things is fostered and encouraged by designing and unscrupulous men, both in and out of the tribe; who have in view the accomplishment of none other than selfish ends; men who do not seem to mean what they say, and who work to defeat by indirection that which they loudly advocate, viz: The real welfare of the Cherokee Indians; to harmonize the differences of these Indians, protect their interests, and lead them up to a better and fuller knowledge of the arts of civilization will be no light task; but its accomplishment might prove easy to a man who is honestly resolute and resolutely honest, who would keep aloof from all partisan connection with this or that faction, who would work faithfully and ungrudgingly for the best interests of the whole people, and who would be able to impress upon their minds that such was his purpose all the time. These Eastern Cherokees are not in a wild or brutish condition. Far from it. They are all peaceable; are inclined to industry; are already well advanced in the arts of civilized life, and many of them are very intelligent, able to read and write in English, while many more can read and write in the Cherokee. With good care there is a bright future for these Indians. Without it they and all their substance will soon fall an easy prey to the rapacity of greedy adventurers and speculators.

We would respectfully submit that in the discharge of the duty assigned us we have not been influenced by partisan spirit. We state the truth as we see it and have been governed throughout by the dictates of our best judgment and conscience, acting as our oath required we should. We listened patiently to every person offering their views on the subject under consideration by the commission and have, as we believe, faithfully presented the same, together with our own.

We desire to record here our obligations to Mr. M. S. Temple, surveyor, who, on our arrival at Qualla, kindly placed himself at the disposal of the commission and guided us over the boundary during our examination of the same, furnishing us at the same time much valuable information.

Regretting that our chairman felt unable to agree with us in our conclusions regarding the lands, we respectfully submit the foregoing as our report.

Very respectfully, your obedient servants,

JAMES STEVENSON.
PAUL BRODIE.

Hon. E. P. SMITH,
Commissioner Indian Affairs, Washington, D. C.

QUALLATOWN, N. C., October 27, 1875.

Since you have left Quallatown, I have been making some little calculations in regard to the Indian lands, as to the quantity and quality of lands now under cultivation, together with the assigned State valuations of each quality, with a few remarks and suggestions that I trust will not be regarded as an intrusion, not desiring to mislead or influence any one, but giving simple facts as I understand and believe to be near correct. The original State prices of lands were, I believe, as follows:

First quality, \$4 per acre; second, \$3; third, \$1; fourth, 25 cents; fifth, 20 cents. Mountain lands not surveyed by the State, but left to be taken up by entry, ranged

from 5 to 12½ cents per acre, which quality composes a large amount of the Indian lands lying around the bottom lands, taken up by persons owning the former and since by Col. W. H. Thomas, for timber. I have made a calculation, first, of the probable number of acres of bottom land, which I believe to be large and full. I will mention settlements, so that you may bring to mind and better understand as to the correctness of my statement.

1. Soco Valley, which I calculate at 4 miles in length by one-fourth of a mile in length wide, average, making 640 acres; bottom lands, Holland Fields, 200 acres; a little farm above and adjoining Holland Fields, 50 acres; Big Cove on Raven's Fork of Oconaluftee River, 200 acres; at and above the ford of Oconaluftee River, where the public road crosses, leading up Oconaluftee, above Ute Shirrill's, 150 acres; Shuler farm below Birdtown meetinghouse, 200 acres; Adams Creek, last land examined, 150 acres; Ah ma chu na farm, opposite Ute Shirrill's, and below the ford of Oconaluftee, where we crossed as we came from Adams Creek, probably 50 acres; above the fording last mentioned on the opposite side of Soco Creek, from the road in the fork of Oconaluftee and Soco, probably 30 acres; taking other small parcels too tedious to enumerate, altogether there might be 100 acres; this, I believe, will comprehend all of the bottom land within the boundary line, though there is one good tract awarded as an individual farm outside that you did not see, containing probably 100 or 125 acres, say 125 acres. As to Hillside land I can not so well calculate, but from the knowledge that I have I think that I would be safe in saying 1,000 or 1,200 acres, say 1,200.

In regard to the whole amount of lands inside of the boundary line, as calculated by Col. Temple, about 73,000 acres. Of this amount I am satisfied that there is not less than 25,000 acres belonging to individuals and the State, the larger part of which is mountainous and rough, though some fine lowlands; for instance, about 1,800 acres owned by the heirs of J. R. Lowe; 1,800 adjoining to and on the northeast side of a large survey known as the Brown or Cathcart; near 2,500 acres in Birdtown, owned by individuals and the State; several thousand thought to be at the northwest end of the Cathcart survey, say 4,000; probably 1,000 acres northeast and adjoining Hollands Fields.

I would very respectfully suggest that it might be well to withhold a final decision until you receive the acts of council of October 6, in order to examine the statements set forth and which was placed in the hands of Special Agent W. C. McCarthy October 23 for transmission to the Interior Department.

Very respectfully,

T. B. WELCH.

Messrs. BRODIE AND STEVENSON.

EXHIBIT F.

UNITED STATES INDIAN SERVICE,
SPECIAL AGENT IN THE FIELD, EASTERN CHEROKEE AGENCY,
Charleston, N. C., December 7, 1885.

SIR: Having fulfilled my mission at the agency of the Eastern Band of Cherokee Indians, residing in North Carolina, in obedience to your letter of special instructions bearing date October 22, 1885, to the best of my ability, and in all things as thoroughly and completely as I believe it is possible for me to do under the difficulties surrounding me, I have the honor to submit the following report:

Before proceeding further, however, I deem it proper and due to myself to state briefly some of the many obstacles and difficulties with which I had to contend, in order that you may the better understand with what degree of indulgence any apparent tardiness or lack of thoroughness or completeness in my work should be regarded.

The Eastern Band of Cherokees reside on their own lands in Swain, Jackson, Graham, and Cherokee counties, N. C. These are remote mountain counties, and the Indian settlements in all of them, as well as the county seats of Graham and Cherokee, are almost inaccessible, except upon horseback.

In the fulfillment of my duties I found it necessary to visit the county seat and Indian settlement in each of these four counties. To do this I had to make long journeys, from 30 to 70 miles, on horseback, over the most difficult mountain roads and across numerous large streams—the Oconaluftee, the Tuckaseegee, the Tennessee, the Nantayala, the Cheoah, and other rivers, without bridge or ferry.

The swollen and impassable condition of these streams several times during my service at this agency greatly retarded me in my movements and performance of duty. All my journeys through the interior were attended with many hardships and some of them with very great peril.

In addition to the difficulties of travel, I found much confusion and lack of system in the office of the registers of deeds in the counties in which the Indian lands lie.

The system of listing lands for taxation is absolutely unintelligible, no sort of description being given, except the name of the owner, the number of acres, and the value. And scores of deeds are so incorrectly indexed—the wrong page being given—that it is only with the most patient search, without much reliance upon the index, that they can be found; while the manner in which others are indexed is so misleading—the grantor being frequently indexed as the grantee, and *vice versa*—that they are liable to be passed unrecognized by the examiners. Others are indexed under the wrong letter of the alphabet, and therefore likely to remain undiscovered by the most careful and painstaking search.

Another obstacle in the way of an expeditious and satisfactory performance of certain of my duties was the absence from the records of all but a few of the adverse title papers and the unwillingness of the alleged intruders and trespassers to exhibit those not registered. But few adverse claimants have ever had their title papers, if they have any, registered. I called personally upon a number of them and respectfully requested them to show me their papers or explain their character to me, to the end that I might submit a report in the premises that would do, as nearly as possible, exact justice to all concerned; but this they uniformly refused to do.

I. SEARCH FOR THE DEEDS TO THE INDIAN LANDS.

In compliance with the first instruction contained in your letter of special instructions above alluded to, I made diligent search for the deeds, contracts, and other title papers, which the board of arbitrators (Barringer, Dillard, and Ruffin), in the ninth item of their award, directed to be delivered to W. W. Rollins, one of the agents for the Indians in the suit then pending in the circuit court of the United States for the western district of North Carolina (May term, 1874), for registration in the proper counties.

I found that, in pursuance of said award, Mr. Rollins caused eleven of the deeds in question to be registered, but no more. I discovered twenty-seven more still in the office of the clerk of the said U. S. court at Asheville. But all my efforts to discover the rest of them, or in whose possession they now are, if still in existence, were futile. They seem to be irretrievably lost, secreted, or destroyed; most likely, in my judgment, secreted or destroyed. None but the eleven above mentioned have ever been registered by Mr. Rollins or any other person. In my search for them, I called personally upon Mr. J. W. Terrell, of Webster; Mr. Fred. C. Fisher, of Waynesville, Mr. J. E. Reed, clerk of the U. S. Court at Asheville, and made inquiry of every other person whom I supposed at all likely to know anything about them, each for himself protesting that he knew nothing whatever of their whereabouts or how they were or could have been lost. There is no receipt in the office of the clerk of said court for them, or any of them.

All other means to discover them having failed, at the recent November term, 1885, of the circuit court of the United States for the western district of North Carolina, (held at Asheville), U. S. Attorney Jones, at my request, moved for a rule on Mr. Rollins to account for the deeds, contracts, and other title papers directed by said award to be delivered to him for registration. The rule was ordered by the court and promptly served on Mr. Rollins. To this rule he answered in writing (a copy of which rule and answer is hereto appended as a part of this report, marked Exhibit A), that only ten or a dozen of the deeds in question were ever delivered to him, and that he caused all those delivered to him to be registered in the office of the register of deeds for Jackson County.

There was no final order made in the matter of this rule. On motion of U. S. Attorney Jones, it was continued until the next term of court, to give him time to prepare and file exceptions to the answer.

After procuring and carefully reading a copy of Mr. Rollins's answer, I determined to cause a close search to be made for the deeds in the office of the clerk of the U. S. court at Asheville. The discovery of twenty-seven of them stored away in an obscure place in the office was the result of that search. The failure of the arbitrators to make a schedule of the papers turned over by them to the clerk and directed to be delivered by him to Mr. Rollins for registration was most unfortunate. On that account it will be impossible to ever know positively how many or which of them are lost, or who should be held responsible therefor.

A schedule of the twenty-seven found in the clerk's office is hereto appended as a part of this report, marked Exhibit B.

A few of these deeds have been registered in Cherokee County. That was done before the formation of Graham out of part of Cherokee, and while the land described in the deeds was in the latter. It is now in Graham, and I would recommend that the deeds be registered in that county also. Their registration in the mother county while the land was in it is, perhaps, sufficient in law, but as a matter of convenience

and for purposes of public notice they ought to be on record in the county in which the land is now situated.

Agent Holmes has in his possession 174 deeds, contracts, and other title papers which were sent to him some months ago by the honorable Commissioner of Indian Affairs. Only 14 of them have ever been registered; the other 160 should be registered at once. The cost will be \$1 each. The total cost of registering all the deeds in the possession of Agent Holmes and the clerk of the U. S. court will be \$187.

An act of the last general assembly of North Carolina requires all deeds now in existence to be registered on or before the first day of January, 1886 (*See Chap. 147, Laws of North Carolina, 1885*). I inquired of the clerk of the U. S. circuit court if he would deliver the deeds in his possession to an agent of the Government for registration, without an order of court? He informed me that he would not. Whereupon, in order to facilitate you if you should wish to have the deeds registered, I wrote to U. S. Attorney Jones requesting him to procure the necessary order, and, although I have not heard from him, I feel sure he will comply with my request in due time, if he has not already done so.

In view of the requirements of the statute above alluded to, as well as the common necessities for registration, I deem it important that all these deeds be registered. I therefore recommend that the Indian agent at Charleston be directed to procure, forthwith, from the clerk of the U. S. court at Asheville, the twenty-seven title papers in his office and cause them, together with those in his own possession, to be registered in the proper counties, and afterwards get them back and preserve them in his office.

II. TRESPASSERS AND INTRUDERS IN QUALLA BOUNDARY, SWAIN AND JACKSON COUNTIES.

In compliance with the second instruction contained in your letter above alluded to, I made diligent, patient, and careful efforts to ascertain what lands owned by this band of Indians in Qualla boundary, or elsewhere, as shown by their deeds, "are in the possession or occupancy of white or other settlers than members of the band," and also to procure all required or necessary information concerning all alleged trespasses, intrusions, and adverse claims. It was in the discharge of this duty that I experienced the perplexity and difficulties incident to the chaotic condition of the public records and the obstinacy of the adverse claimants alluded to in the preface to this report.

There are twenty intruders on lands within the limits of Qualla boundary. Only one or two of them have any sort of title papers on record. They all claim under some kind of title from one Penn Kline, alias W. P. Hyde, who procured a great many grants from the State for lands in Qualla boundary subsequent to the date of the award. This Mr. Kline, alias Hyde, seems to have been a considerable speculator in lands some years ago. To comprehend his transactions in Qualla boundary lands it is necessary to know that the State of North Carolina never diminishes her public domain. Under her laws she will grant away the same tract or parcel of land times without number. Any citizens, upon proper application and payment of a specific price, can obtain a grant for any particular tract or parcel, no matter if the State had parted with her title to it forty years before. She will issue grants to the same tract or parcel just as many times and as frequently as proper application is made to her for them. She warrants nothing, however, but leaves it to the grantees to contest the "seniority" of their respective grants between themselves in the courts. Hence, Mr. Kline, alias Hyde, manifestly experienced no difficulty in procuring grants from the State for all the lands he wanted in Qualla boundary. And so completely did he cover it and absorb it with grants that my great surprise is that having gone that far he did not go one step further and bring suits of ejectment against the whole band, and set them adrift in the world, without whereon to lay their heads.

These grants were obtained by Mr. Kline, alias Hyde, subsequent to the date of the award. Under title thus acquired, he sold all the land in Qualla boundary now occupied or claimed by other than members of the band, except Ute Sherrell's homestead tract of 346 acres, which was excepted in the award (*see* ninth item, Barringer award), and John Enloe's homestead tract (part of the Ute Sherrell 346-acre homestead tract), which he holds under deed from Sherrell.

Owing to the difficulties before cited, it was impossible for me to ascertain the amount or the description of the lands claimed by either of the intruders more definitely or accurately than the same are shown on the tax rolls. These intruders claim and occupy from 40 to 640 acres each. They cultivate from 10 to 50 acres each. Their improvements, other than their fields, are of but little or no value, their dwellings being mere log huts.

To say, even, that in my opinion not one of these intruders has as good title to the

lands which he occupies and claims as the Indians have, would be to exalt the titles or pretended titles of the former to more consideration than I believe they deserve. I consider them of the flimsiest sort. In my opinion these settlers are both intruders and trespassers in the most obnoxious sense of the terms. I am convinced, also, that no one knows this fact better than they do themselves, and that their intrusions and trespass are entirely willful.

This opinion is based upon personal inspection of a majority of the settlements; interviews with more than half the settlers, their obstinate refusal to exhibit their title papers to me, or explain their character; the absence of all their papers, whatever they may be, from the public records; together with the more important and significant, and, to me, conclusive facts, that they all hold under this man, Kline, alias Hyde, and he undergrants from the State issued subsequent to the date of the Barringer award. To corroborate these facts and circumstances, if corroboration be at all necessary, I invite your attention to the first part of the ninth item of said award, which reads as follows:

"We find that William H. Thomas purchased the Cathcart survey of 33,000 acres and other adjoining tracts and entries, out of part of which the said Qualla boundary is composed, and that he extinguished the titles of all whites inside of said boundary with the single exception of that one of Ute Sherrell."

This is the award of Barringer, Dillard, and Ruffin, and we are bound to assume that it is based upon absolute facts, because it must be borne in mind that those arbitrators had all of Thomas's title papers of every character before them. Also, that they had made up this part of their award at least before they awarded that those deeds, contracts, etc., should be delivered to some "competent person" to be registered.

But permit me to quote the rest of the said ninth item of the Barringer award, which is as follows, to wit:

"* * * and that but few of his title papers have been registered, and that but few of his deeds to, and his written contracts of sale with said Indians, whether at Qualla or elsewhere, have been registered. We do, therefore, award that all of said deeds to Thomas, under which the said Indians claim, and all his deeds and written contracts of sale to them or any of them, shall be registered in the proper offices of the State; and to the end that this may be properly attended to by some competent person, we do award that all such deeds and contracts be delivered to W. W. Rollins, one of plaintiff's agents, for registration."

This item furnishes a key to the whole matter. But few of Thomas's title papers, as well as those from him to individual Indians, have ever been registered. This fact, together with the further fact that many of them are supposed to be lost, secreted, or destroyed, is nowhere better known than in the vicinity of Qualla boundary, and by no person better than by Mr. Kline, alias Hyde. Hence the presumption among certain whites here that it would be difficult, if not impossible, for the Indians to show title out of the State. Hence, in my judgment, the determination of Mr. Kline, alias Hyde, to equip himself abundantly with grants from the State for lands in Qualla boundary; and notwithstanding the arbitrators manifestly had Thomas's chains of titles from the State before them, and found, as they awarded, that he had extinguished the titles of all whites, except Ute Sherrell's, and notwithstanding the State of North Carolina was unquestionably implied in the term "whites," this State, like some great, big fish on her spawning grounds, went right on breeding and hatching out more titles to this same land.

In the first interview I had with Mr. Kline, alias Hyde, he agreed to furnish me with a description of all the lands in Qualla boundary, held by claimants under him; but his books and papers being inaccessible just at that moment, upon reflection he changed his mind, and refused to show me anything or impart any information to me whatever.

Following is a list of the intruders on Qualla boundary, showing the post-office address and the amount of land claimed by each, as shown by the tax rolls, to wit:

Penn Kline, alias W. P. Hyde, 485 acres; David Johnson, 150 acres; George W. Gibson, 200 acres; Christanberry Howell, 100 acres; Mrs. Tabitha Thompkins, 200 acres; Thomas Mills, 100 acres; J. H. Mosely, 135 acres; A. H. Hayes, 165 acres; Mrs. H. A. Keener, 150 acres; E. S. Keener, 206 acres; Berry Cooper, 100 acres; D. W. (or Bose) Love, 240 acres; J. B. Keener, 60 acres; John R. Kinsey, 62 acres; H. S. Baker, 130 acres, and Bartlett Dills, 40 acres, all at Cherokee post-office, Swain County; and W. A. Enloe, 640 acres; Nimrod Childress, 100 acres; Humphrey Childress, 80 acres, and Moses Treadaway, 600 acres, at Oona Luffy post-office, Swain County.

I would name as witnesses to the fact and circumstances here reported the following-named persons, to wit: Daniel Lester (white), surveyor of Swain County, Fairfax post-office; Henry Connor (white), H. J. Beck (white), G. W. Bradley (white), and Chulatoska (Indian), Oona Luffy post-office, Swain County; Chief N. J. Smith (Indian), Assistant Chief Sate Owl (Indian), Interpreter James Blythe (Indian), and Howeenetah (Indian), Cherokee post-office, Swain County.

III. INTRUDERS AND TRESPASSERS UPON LANDS OF THE BAND IN GRAHAM COUNTY.

(1) Andrew Shields has possession of and is residing upon and cultivating grant No. 90, in district No. 9, 141 acres. (*See* p. 42, H. R. Ex. Doc. No. 196, Forty-seventh Congress, first session.) He has had possession two years or more, and claims under certificate of purchase at sheriff's delinquent tax sale, May 13, 1882. The records are totally silent as to his title, if he has any. His post-office address is Robbinsville, Graham County.

Witnesses: Jason S. Hyde, S. J. R. Calvord, and Lewis H. Smith, Robbinsville, Graham County.

(2) W. H. Ray and J. B. Ray have possession of and are living upon and cultivating grant No. 9, in district No. 9, 269 acres. (*See* pp. 42 and 43, H. R. Ex. Doc. No. 196, Forty-seventh Congress, first session.) They have had possession about two years, and claim under some sort of title from one Nathan Crisp. Crisp's title to the lands, if he ever had any, is not shown by the records; neither is that of the Rays. The post-office address of both the Rays and Crisp is Welch, Graham County.

Witnesses: John Sawyer (white), Welch, and Lewis H. Smith (Indian), Robbinsville, Graham County; and Sam B. Gibson (white), ex-agent, and John Sawnooke (Indian), Nantayula, Swain County.

(3) I. V. Cooper has possession of, resides upon, and cultivates section No. 103, in district No. 9, 105 acres. (*See* pp. 42 and 43, H. R. Ex. Doc. No. 196, Forty-seventh Congress, first session.) He is not believed to have any kind of title or supposed to desire any. He has been on the land some three years, and from the best information I could obtain he is an intruder and trespasser, pure and simple.

Witnesses: Jason S. Hyde, S. J. R. Colvard, and Lewis H. Smith, Robbinsville.

(4) Gilpin Phillips has possession of section No. 13, in district No. 9, 303 acres. (*See* pp. 42 and 43, H. R. Ex. Doc. No. 196, Forty-seventh Congress, first session.) He has been residing upon and cultivating this land four or five years or more, and claims it under purchase at some kind of sheriff's execution sale, of which sale, of his title papers thereunder, I was unable to find any evidence on the records.

Witnesses: Jason S. Hyde, W. F. Manney, S. J. R. Colvard, and L. H. Smith, Robbinsville.

IV. ADVERSE CLAIMANTS FOR, AND INTRUDERS AND TRESPASSERS UPON, INDIAN LANDS OWNED IN SEVERALTY.

(1) On the 23d day of November, 1854, Kayukah (or Ground Squirrel) bargained with W. H. Thomas for section No. 23, in district No. 10, 288 acres, in Graham County, for which he agreed to pay \$850. He paid \$400 cash and gave his promissory note for \$450. Thomas gave him bond for title. Thomas's sole title to or interest in the land at this time was simply a certificate of survey—an imperfect entry—or, more correctly speaking, the exclusive right of himself or assignee to a State grant within a certain limited time. Some time afterwards he got in distress for money. To secure a loan from Bryson he assigned to him this certificate of survey. He failed to pay Bryson the borrowed money when it became due. Thereupon Bryson presented this certificate of survey at the general land office of the State, and paying the requisite fee obtained a grant thereon in his own name as the assignee of Thomas. This gave Bryson perfect title.

Some time afterwards Bryson conveyed the land, by proper deed, to D. C. Ghormley. In the meantime, Ground Squirrel had paid the balance of the purchase money to Thomas and taken up his note. (*See* p. 39, H. R. Ex. Doc. No. 196, Forty-seventh Congress, first session.)

When Ghormley went to enter upon and take possession of the land under his deed from Bryson, he found Ground Squirrel on it, and was informed of his purchase of it from Thomas. Ghormley not wishing to deprive the Indian of his home, and knowing the land to be worth \$1,500 or more, proposed to make him a perfect deed to it if he would reimburse him in the amount he had paid Bryson—\$300. Ground Squirrel accepted the proposition, and he and his wife, Ollie, and his son, Atoah, and his son-in-law, Oochunt, paid Ghormley the money—\$300. Whereupon he executed to them jointly, as tenants in common, a perfect deed to the land. Thenceforward Ground Squirrel and his family retained undisputed possession of their home, until the spring of 1884. For many years he was one of the most substantial and thrifty Indians in the band. His farm was productive and valuable. He peacefully tilled his own doubly-purchased soil, had a sufficiency of live stock and other property around him, and lived, perhaps, in greater comfort and respectability than any other Indian in North Carolina. But, sad to relate, as old age grew on him, he became afflicted with that terrible malady—cancer. Like some grim, unrelenting, remorseless monster, it fastened itself upon his face, and the spring of 1884 found him hopelessly bedridden, with one cheek eaten away, one eye entirely gone, maggots in his head, and his mind so impaired that more than half the time he was unable to recognize his most intimate friend.

At this time there came treading softly around Kayukah's bedside and bending low over him a man whose words were full of tenderness and love and sympathy. His heart was overflowing with pity, and whatever he could do to alleviate the agony of the dying man or comfort the sorrowing family he would be only too glad to do. His name was Reuben Carver.

Reuben Carver became the counselor and confidential friend and adviser of the afflicted family. Ground Squirrel could live but a few days. His business affairs should be speedily and carefully wound up, so as to protect his family from plunderers after his death. Reuben Carver, the tip-toeing, low-bending, sympathizing, sorrowing friend, would do it. To him this task would be a delight instead of a burden.

First, the farm should be sold. It was so liable to get away from the surviving owners and go to destruction if they should attempt to retain it. It might be lost or stolen or sold for taxes. Moreover, they might some day be cheated out of it. To avert such a disaster from them, it should be sold before the old man's death. And lest some inhuman wretch might cheat the old man, he would buy it from him himself. He did not need it, but he would buy it, merely as an accommodation to the family.

Search was made for the title papers. The Thomas bond to Ground Squirrel, and the latter's note to the former, which, as above stated, and as awarded by the arbitrators, had been paid, were found. But the deed from Ghormley was missing. The supposition is that it was one of those directed to be delivered to some "competent person" for registration, and never seen again. Carver went to Ghormley and told him that the Indians had lost their deed from him, and wanted another one in lieu of it, the original one having never been registered. Ghormley promptly prepared and executed a deed as requested, which was as near like the original as it could be written from memory, and set forth particularly that it was given in lieu of it. Ghormley delivered this deed to Carver, and he departed, saying he would carry it to the Indians. In a few days he returned to Ghormley's house with the deed, and told him the Indians did not want it because it was given jointly to Ground Squirrel, his wife, Ollie, his son, Atoah, and his son-in-law, Oochunt. He said they wanted a deed to Ground Squirrel alone. Ghormley explained that he had no right to give them a deed essentially different from the original; that the sale and the original deed being to the parties named in the new one, they must accept it or nothing. Carver again told him they did not want it, and handing it back to him, rode away. Ghormley, being a sagacious man, he carefully laid the deed away to await developments, instead of destroying it, as Carver doubtless hoped he would do.

Three weeks later Ground Squirrel died. Then the beautiful story of Reuben Carver's sympathy and love and deep sorrow for the old Indian was whispered from ear to ear by tongues that were at the same time laden with the romance of his removal of the old homestead beyond the reach of all who wore crape at the funeral. The tale of his wonderful devotion to his dear old friend Kayukah, and his brilliant "wind up" of the estate, were spread upon the same mountain zephyrs, and wafted into every cove and valley from the Cheoih to the Nantayala together. Being a truthful man, as well as a sympathizing and generous friend, Reuben Carver had kept his word, and purchased the farm himself, to prevent the family from being plundered of it, or letting it stray off and get lost from them after the old man's death.

The most intelligent citizens of the neighborhood in which this farm is situated estimate its value from \$1,500 to \$2,000; none less than the first figure; Reuben Carver bought it for \$300, payable \$25 annually for twelve years. He did not pay a dollar cash, and gave no sort of security for the payment of the purchase money except his simple promissory notes. These notes are for \$25 each, payable one every year, for twelve years, the first falling due the 1st day of November of the present year. They bear no interest, and are made payable in money, corn, potatoes, or any other commodity.

As above stated, Ground Squirrel died of cancer three weeks after the pen was placed in his hand to make his mark to the instrument, whatever it may be called, under which Carver now claims the place. This was sometime in the spring of 1884. The death of Ground Squirrel was quickly followed by that of his wife, Ollie. Soon after her death Carver took forcible possession of the place and asserted, and still asserts, his title to it, though he has been forced by public sentiment and the resistance of Oochunt's children to partially yield possession to them. In the spring of the present year, when Oochunt's sons attempted to plant corn in one of the fields, Carver had them arrested for trespass. But after giving them a scare, he failed to prosecute, and permitted them to return and cultivate a part of the land.

I was told voluntarily by a number of the most reputable citizens of that community that at the time Carver procured this instrument of writing from Ground Squirrel the cancer had actually eaten away all one side of his face, including one eye-

and more horrible still, that, owing perhaps to neglect or lack of skillful attention, there were maggots in his head, and that they considered his mind not merely impaired, but so far destroyed as to render him forever wholly incapable of attending to any sort of business. They say he had to be held up in bed and the pen placed between his almost nerveless fingers to make his mark to the paper, and that he performed that act just about as he would have taken a dose of medicine—simply because he was told to do it. And who was the dying old man's prompter in this act? Was it some base swindler—some conscienceless thief? No. It reads like it might have been the black-winged vulture circling impatiently around some carcass before life was extinct. But it was not. It was Reuben Carver, the friend who kept the midnight vigil at the bedside of the sufferer and condoled with the sorrowing family as their benefactor. It was more like a ghoul digging jewels, by the uncertain light of the moon, from a new-made grave in some lonely graveyard.

Reuben Carver can not plead in mitigation of this monstrous piece of business that he did not want the place, but, yielding to the importunities of the family, bought it merely to accommodate them. In that case, the terms, if not the price, would have been different. He would have been required to pay at least cash enough in hand to relieve their then existing necessities, and Ollie and Oochunt would have joined in the deed. But, as it was, he paid them not a dollar in cash, but made the first note payable more than a year ahead, and neither of them joined in the deed. After the facts concerning this transaction became public, certain parties in the vicinity procured the new deed from Ghormley, and had it properly registered on page 257, deed record C, in the office of the register of deeds for Graham County, April 7, 1885. The Thomas bond for title was registered December 2, 1869, on page 356 of record L, in Cherokee, and also on page 84 of record B, in Graham, September 17, 1881.

I would name as credible witnesses to the foregoing facts and circumstances, Capt. D. C. Ghormley, W. F. Manney, register of deeds for Graham, D. K. Blanton, H. P. Hyde, and L. H. Smith, Robbinsville, Graham County, and Oochunt (Indian) Cherokee post-office, Swain County; Judge S. W. Davidson and M. Fain, Murphy post-office, Cherokee County.

(2) Sometime in the year 1884 D. K. Blanton and H. P. Hyde purchased Oochunt's interest in the Ground Squirrel homestead, paying him \$50 therefor. In conversation with them, after showing them that it would be impracticable to fairly partition the land, and undesirable to hold as tenants in common with Oochunt's children, who inherit a three-fourth's interest from their grandfather, Ground Squirrel, their grandmother, Ollie, and their uncle, Atoih, of all of whom they are the sole surviving heirs at law, they expressed willingness to rescind the trade, or even to quit their claim without the payment of the purchase money back to them, rather than have a lawsuit. They impressed me as fair-minded men. I was not convinced that they meant to defraud the Indian, and I recommend that the agent be authorized and directed to make a fair and reasonable adjustment of the matter with them, but at once, before the transaction has grown old. They have never cultivated the land or derived any benefit from their trade, and in their present frame of mind they will give the agent no trouble. Oochunt and his sons should be required to pay them back the \$50, and then admonished to never trade their land without the advice of the agent and the honorable Commissioner of Indian Affairs.

(3) In the fourth item of the Barringer award it was awarded that the wife and children of an Indian named Little John had a deed to a tract of land situated on the south side of Tuckaseegee River, and outside of said Qualla boundary, for 173 acres, on which they then lived. Under this award Little John's widow, Jennie Little John, and his six children, Canseeyanga, Armakee, Canlananska, Amayawkee, Gayankee, and Equalaunce, had equal interests in the place. This award was made October 23, 1874. In the latter part of 1775 or first part of 1876 Canlananska was killed, leaving surviving him three small children, namely, Rope Twister, Ootawatta, and John Wansee, who are still minors, aged 20, 16, and 12 years, respectively. On the 12th day of October, 1876, the widow and surviving children traded the place to Mr. Abel B. Hyatt. They gave him a deed and placed him in possession of the property. The consideration was an equal amount of land adjoining Qualla boundary to all of them, except one, jointly as tenants in common, and \$300 in cash to the one taking no interest in the land taken in exchange for their place.

The three minors above mentioned were wholly ignored in the transaction. No person assumed to join in the conveyance for them, and they were paid no money, and given no interest in the land taken in exchange. They are, of course, entitled to their father's share in the Little John farm. Indeed, Mr. Hyatt, the purchaser, does not deny that fact. He protests that he knew nothing about these minor heirs when he bought the place; in fact not until I addressed him in regard to them. He expressed perfect willingness to adjust the matter in any fair manner most satisfactory to the honorable Commissioner of Indian Affairs. The widow and surviving children sold the land taken in exchange for \$160 a share. Mr. Hyatt suggested

that he thought it would be fair to take this as a basis of adjustment. I did not then think so, and do not now. In the exchange, the six shares in the Little John farm were estimated at \$300 each.

This is shown by the payment of \$300, cash, to one of the heirs for his share. There were only five shares in the land taken in exchange for the Little John place, and the heirs realized only \$160 on each of them. This demonstrates that the land taken in exchange by the Indians was worth only about half as much as the Little John farm.

But even the value of the Little John farm at the time Mr. Hyatt bought it can not be taken as a basis of settlement. Its present value, together with the value of all the improvements thereon, must constitute the basis. Otherwise Mr. Hyatt is liable to the minors for rent from the date of his purchase, eleven years ago. Mr. Hyatt now has a fine farm and a substantial two-story brick residence on the land in question. Its present value is variously estimated from \$5,000 to \$8,000. Putting it at the lowest figure, a one-seventh interest in it is worth upwards of \$700. Putting it at the highest, it would be worth upwards of \$1,100.

I recommend that proper steps be immediately taken to restore these minors to their rights. They are orphans, very poor, and stand in great need of the benefits of their property. Mr. Hyatt has the reputation of being an honest, honorable man, and I so regard him. I do not believe he will be obstinate or unreasonable in the matter. I am satisfied he will accede to any fair proposition rather than be compelled to defend against legal proceedings.

Witnesses: Daniel Lester, Fairfax post-office, Swain County; Sam. B. Gibson, Nantayala, Swain County; N. J. Smith, Jackson Blythe, and James Blythe, Cherokee post-office, Swain County.

(4) In the year 1869 one N. G. Howell, now deceased, who is said to have been one of the lowest of low-grade swindlers, sued Hunting Boy and several other Indians before W. T. Green, a justice of the peace for Cherokee County, on a claim or pretended claim for some sort of services as clerk or attorney for Chinaque (or John Owl), who he falsely alleged was chief of the band. Judgment went against the Indians. Howell caused a transcript of the judgment to be filed and docketed in the office of the clerk of the superior court, and a superior court execution issued thereon. Five tracts of land owned by the defendant Indians in severalty, aggregating 750 acres, were levied upon and sold under this execution, Howell himself being the purchaser. Citizens who watched the proceedings regarded them as irregular and refused to bid on the land. Consequently, Howell bid it all off himself at very low prices, one tract of 100 acres going off at \$5.

In 1880, after the formation of Graham County out of that part of Cherokee in which the defendant Indians reside, the judgment being still unsatisfied in full, Howell caused a transcript of the same to be filed and docketed in the office of the clerk of the superior court of Graham County. Execution issued, and the sheriff of Graham County was about to levy upon and sell more of the lands of the defendant Indians, when they retained K. Elias, esq., of Franklin, to defend against further proceedings. Mr. Elias at once applied to the judge of the superior court, and obtained from him an order temporarily restraining the sheriff from making levy and sale. And shortly afterwards, to wit, at the spring term, 1880, of the Graham superior court, on motion of Mr. Elias, as counsel for the Indians, as aforesaid, the said superior court not only made said temporary restraining order perpetual, but set aside, annulled, vacated, and held for naught, the judgment itself.

Now the five places sold to satisfy this judgment before it was set aside are still held by white men under deeds from Howell. Of course, the setting aside the judgment vitiated whatever title Howell acquired by his purchase at the sale under the execution upon the same. The tracts sold were Oonahata Conneseenah's place, 100 acres; Wattatooga's two places, 150 acres; Joe Locut's place, 100 acres; Hunting Boy's place, 150 acres; Wauchurcha's place, 150 acres; and Tom Big Meat's place, 100 acres; these places are now held by Tyra Higdon, John Grant and James G. Brooks.

I respectfully recommend that K. Elias, esq., of Franklin, Macon County, be employed to bring suits of ejectment against them, and also for the recovery of rents and damages. I make this recommendation because Mr. Elias is a reputable lawyer, and for a small fee stopped the proceedings in the Graham superior court in 1880, and had the judgment set aside, and is therefore perfectly familiar with all the facts and circumstances of the case, and could handle it successfully.

V. CLAIMS OF DICKAGEESKA'S HEIRS AND FOURTEEN OTHERS. THE HENSON LANDS.

(1) After much inquiry and patient search among the Indians, and several fatiguing trips through the mountains on horseback, I succeeded in carrying out the third and fifth instructions contained in your said letter of special instructions. For

convenience I will report the result of my investigation under the fifth instruction first.

As directed, I made a personal visit to the Henson lands (see sections 7, 8, and 9, p. 57, H. R. Ex. Doc. No. 196, Forty-seventh Congress, first session). This land embraces three contiguous tracts aggregating 2,722 acres. It is one of the finest bodies of land in western North Carolina. The greater part of it is susceptible of cultivation. It also lies on both sides of the best part of Hanging Dog Creek, which is noted for its excellent water power. Accompanied by Judge S. W. Davidson, of Murphy, who is well acquainted with every part of the tract, I rode all over it on horseback, inspecting the settlements and improvements thereon. They are all of the most primitive character and of but little value, all the settlers, except the Warlicks, being in every sense squatters.

The present occupants are Alfred Warlick, husband of Irene Warlick, who is a daughter of the late Richard, alias William Henson; Henderson Warlick, husband of a daughter of Irene Warlick by a former marriage; Martin Parker, Isaac Lovinggood, Benjamin Killian, James Williamson, John Graves, and John Dockery.

As to the present ownership of the land, I found it vested in Richard, alias William Henson, Joseph Henson, and William Henson, junior. In the fifth item of the Barringer award, it was awarded that Richard Henson and Richard Henson and others had contracts in writing for title to the lands in question from William H. Thomas, and were entitled to specific performance thereof, whenever they should make full payment of the purchase money. (See fifth item of Barringer award.) And on the 16th day of April, 1883, Hon. Hiram Price, Commissioner of Indian Affairs, as trustee for the use and benefit of the Eastern Band of Cherokee Indians, in consideration of the sum of \$1 to him paid by the said Henson, and upon satisfactory evidence that \$750 of the purchase money had been paid by them to said Thomas, and upon the presumption of the payment or satisfaction of the further sum of \$750. (See Revised Code of North Carolina, chap. 6, secs. 18 and 19—Limitations), conveyed by proper deed (a copy of which deed is hereto attached and made a part of this report, marked Exhibit C) to the said Richard, alias William Henson, Joseph Henson, and William Henson, junior, all the right, title, interest, claim, or demand whatever which became interested in him as trustee as aforesaid under the deed dated August 14, 1880. (See pp. 55 and 57, H. R. Ex. Doc. No. 196, Forty-seventh Congress, first session.)

The Richard, alias William Henson, named in the deed, has been dead, the old citizens here told me, not less than twenty-five years. When I discovered the deed on record in Murphy, I had much curiosity to know if the person or persons who procured it from the honorable commissioner informed him of that fact? Joseph Henson and William Henson, junior, are supposed to be among the Cherokees in the Indian Territory. Irene Warlick, their sister, has never abandoned the old homestead, and she and her children and grandchildren are the only members of the Henson family that have resided on any part of the land for years.

On the 1st day of September, 1885, the whole of the "Henson lands" were sold by the sheriff of Cherokee County for the nonpayment of the taxes due thereon, for the years 1881, 1882, and 1884. Irene Warlick became the purchaser at \$82.25. The time allowed the owner for redemption will expire September 1, 1886. The amount necessary to redeem is \$103.50.

I know of no recommendation or suggestion I could make in the premises that could avail anything, except, perhaps, that the estate should be partitioned and Irene Warlick invested with title to and placed in possession of the part which she inherits as a joint heir with her brothers in their father's interest in it.

(2) As to your third instruction I have to report that Dickageeska's surviving heirs are his son, Ootalkanah, and his daughter Annaka, Rope-Twister's wife. From the best information I could obtain Dickageeska, at the time of the award, owed \$80 purchase money on section 367, district 9, 100 acres. I made formal demand on Ootalkanah for the payment of this sum, together with the further sum of \$52.80 accrued interest thereon, which payment was refused. (See affidavit of W. F. Manney and L. H. Smith, hereto appended and made a part of this report, marked Exhibit D.)

(3) At the time of the award, Ootalkanah owed \$165 purchase money on section 373 in district 9, 100 acres. I made formal demand on him for the payment of this sum, together with the further sum of \$107.20 accrued interest thereon, which payment was refused. (See affidavit of W. F. Manney and L. H. Smith, hereto appended as a part of this report, marked Exhibit E.)

(4) Chinaque (or John Owl) has but one surviving heir, namely, David Owl. David Owl, being absent in the mountains, I did not find him. From the best information I could obtain from others, Chinaque (or John Owl) did not owe anything on "the land whereon he lived in 1855, in Cherokee County." Being satisfied of the truthfulness of this information, I did not deem it worth while to hunt up David Owl to make demand on him.

(5) Toowayalla is dead. His wife, Nancy Toowayalla, and his children, Annassa, Sarah Skeekee, Little Deer Skeekee, George Skeekee, Tecumseh Skeekee, and Gal-ludahyee Cornsilk, survive him. At the time of the award he owed \$100 on 100 acres in section 12, district 10. I made formal demand on the two first-named for the payment of this sum, together with the further sum of \$66, accrued interest thereon, which was refused. (See affidavits of W. F. Manney and L. H. Smith, hereto appended and made a part of this report, marked Exhibit F.)

(6) Cornsilk is dead. His wife, Nakee, and his son Armstrong Cornsilk, survive him. At the time of the award he owed \$40 purchase money on section 588, in district 9, 100 acres. I made formal demand on Armstrong Cornsilk for the payment of this sum, together with the further sum of \$26.40 accrued interest thereon, which payment was refused. (See affidavits of W. F. Manney and L. H. Smith, marked Exhibit G, which is hereto attached as part of this report.)

(7) Tracking Wolf is dead. He left surviving him, neither wife nor children. His brother, Teesateska, is his nearest surviving relative. Being unable to ascertain how much of the purchase money he owed on section 404, in district 9, 83 acres, at the time of the award, I made no demand on any person for the payment of any amount thereon. From the best evidence I could obtain, he had paid the purchase money in full.

(8) Richard Henson died at least twenty-five years ago. His only surviving heir to be found in the bounds of this agency, is his daughter, Irene Warlick. At the time of the award he owed \$750 purchase money on the "Henson Lands". I made formal demand on Irene Warlick for the payment of this sum, together with the further sum of \$495, accrued interest thereon, which payment she refused. (See affidavit of S. W. Davidson and M. L. Brittain, hereto appended and made a part of this report, marked Exhibit H.)

(9) At the time of the award, Salkanah and her brothers, John Axe and Joe Axe, and his sisters, Ollie Jackson and Armakee, owed \$10 purchase money on 91 acres in district 6. I made formal demand on her for the payment of this sum, together with the further sum of \$6.60 accrued interest thereon, which payment she refused. (See affidavit of W. F. Manney and L. H. Smith hereto appended as part of this report, marked Exhibit K.)

(10) Teeseteska denied that he owed any part of the purchase money on 100 acres in district 9, at the time of the award. He declared that the contract price was \$300, and that he paid every dollar of it long before the date of the award. His statement was corroborated by other Indians, who assumed to speak from personal knowledge. Therefore I made no demand on him for any balance due on this particular tract.

(11) George Ooyahsteah is dead. His wife, Kolanuska, and his son, Dakonan-chutla, survive him. They deny that he owed any part of the purchase money on section 365, in district 9, 100 acres, at the time of the award, and their denial being corroborated by the best evidence I could obtain, I made no demand on them for any amount.

(12) Chohiloska is dead. His only surviving heirs are Sam Wolf and Nancy Wolf, minor children of one deceased daughter, and Yaka Cornsilk and Caroline Cornsilk, minor children of another deceased daughter. At the time of the award he owed \$20 purchase money on section 93, in district 9, 120 acres. I made formal demand on Armstrong Cornsilk, the father of two of these minors, for this sum, together with the further sum of \$13.20, accrued interest thereon, which payment was by him refused. (See affidavit of L. H. Smith and W. F. Manney hereto attached and made a part of this report, marked Exhibit L.)

(13) Toonahluay is dead. Ootalkanah, his cousin, is his nearest known surviving relative. Ootalkanah denied that Toonahluay owed any part of the purchase money on 100 acres in district 9. His denial being corroborated by other Indians who assumed to know whereof they spoke, I made no demand on him for any amount. I am satisfied Toonahluay had paid in full.

(14) Cheesquanetah Teeootla (described in the award as Cheesquenetah) averred that he contracted for 300 acres from Thomas, for which he was to pay \$400. He paid \$200, after which Sherrell, Thomas's agent, took back his bond for title and sold 200 acres of the land to another party; that by that arrangement he paid \$200 for the 100 acres mentioned in the award, which was more than the agreed price. I believed his statement to be true, and made no demand on him for any amount.

(15) Cahuahatogo is unknown. The Indians say they have never known who was meant by this name, unless it was an Indian named Lawlaw, who lived many years on the tract described in the award, and was understood by them to have bought it from Thomas and paid for it in full. Indeed his heirs still assert their ownership of it. They are Mrs. Lusa Arguadaga, John Teeseeteska, Will Teeseeteska, and Timpson Teeseeteska. The land is section 405 in district 9, 100 acres. I am inclined to believe that they are the rightful owners, and should have deeded.

(16) I was unable to find Tetalkanah, but was told by several of the Indians who

claimed to know personally all about the transaction, that he had paid every dollar of the purchase money for his 100 acres in district 9.

Recommendation—I earnestly recommend that these Indians be given the benefit of the presumption of payment of the claims against them, which has arisen under the statutes of this State, as cited in the deed of Commissioner Price to the Hensons, and invested with perfect title to their land. There can be no doubt as to the presumption of payment of the claims against them. (See chap. 65, secs. 18 and 19, Revised Code of North Carolina.)

And these Indians are all very poor. Not one of them is able to pay the balance alleged to be due from him. Furthermore, if they were able to make such payment, I could not satisfy myself that under the circumstances, it would be just or consistent with the policy of the Government, as I understand it, to require them to do it. I was convinced upon a careful and thorough investigation that those of them who paid the purchase money in full to Thomas for their land, paid him more than it was worth then, or ever has been since or is now. Also, that those of them whom it is alleged did not pay him in full, paid him at least every dollar that their land ever was, or perhaps ever will be worth.

I made careful inquiry into the character, circumstances, and surroundings of these Indians. As might be supposed from the fact that they so long ago purchased homes for themselves and families, though very poor, they are among the most self-reliant, deserving members of the band. They crave title solely to promote their feeling of security in the permanent possession of their homes, and not for purposes of speculation, as was unquestionably the object of the person or persons who procured the deed from Mr. Commissioner Price to the Hensons. In addition to the same legal status, there is much more merit in these cases than there was in the case of the Hensons. With two or three exceptions, these Indians have never abandoned their places, or ceased to occupy them as their permanent homes. But Richard alias William Henson had been dead twenty-five years or more, and Joseph and William, junior, were living in the Indian Territory, and had been for a number of years, when their deed was obtained from Mr. Commissioner Price. Being thus dead or absent at the time, and not having since returned, it is manifest that the object was not to secure a home; and yet it is clear to my mind that they were legally entitled to their deed, because they had paid half the purchase money, and under the statutes the presumption of payment of the balance had arisen. I mean the two living Hensons. I express no such opinion as to the dead one. I confess my ignorance of any law or custom authorizing the conveyance of land to a man who has been dead a quarter of a century or any other length of time.

The aggregate amount alleged to be due from these Indians is small. If they were able to pay it, and required to do so, it would be for the use and benefit of the band. But they can not pay it. They have not wherewith to do it. Hence the question is, Shall they be denied title to their homes (for which, as above stated, they have all paid full value and some of them even more) for the benefit of the band of which they themselves constitute a considerable and substantial part? Or, shall the band be made to suffer the loss of the amount due from them? It seems to me that it would be more just and right for the band to lose the small amount due from these fifteen families than it would for them to be refused title to the land for which, in my judgment, they have paid full value, and so long occupied as homes and regarded as their own, for that which would prove a very small benefit to the band.

VI. THE QUESTION OF TAXES.

I found the land of the band listed for taxation in the several counties without system or intelligent description. So far as I could judge, they are fairly valued. Only a few tracts have been forfeited for the nonpayment of taxes. A schedule of all their lands, those owned in severalty as well as those owned in common, is hereto appended as a part of this report, marked Exhibit M. This schedule is taken from the tax rolls of the several counties in which the lands lie. It shows how they are listed, in whose name, the description, the number of acres, the value and the amount of taxes due for the current year. It also shows which tracts have been sold for taxes, and which of them are subject to redemption, and the amount necessary to redeem.

The law regulating the levying and collection of taxes on lands in this State is contained in an act of the general assembly entitled "An act to provide for the levying and collection of taxes," ratified March 11, 1885. For your information (see my fourth instruction) I quote from it as follows:

"SEC. 7. Every person required to list property shall make out and deliver to the township list-taker, a statement verified by his oath, of all the real * * * property * * * in his possession or under his control on the 1st day of June, either as owner * * * or agent.

"SEC. 12. The land shall be described by name, if it has one; otherwise in such way that it may be identified.

"SEC. 29. The lien of the State and county taxes levied for all purposes in each year shall attach to all real property subject to such taxes on the 1st day of June annually, and shall continue until such taxes, with any penalty which shall accrue thereon, shall be paid."

"SEC. 36. All taxes shall be due on the first Monday in September in each year.

"SEC. 37. The sheriff or his deputy or tax collector shall attend at the court-house or his office in the county town during the months of September and November for the purpose of receiving taxes; he shall also in like manner attend at least one day during the month of October at some one or more places in each township, of which fifteen days' notice shall be given by advertisement at three or more public places, and in a newspaper, if one be published in the county: *Provided*, That nothing in this section shall be construed to prevent the collecting officer from levying and selling after the 1st day of November, but he shall not sell before that day.

"SEC. 38. Third clause. If the party charged has not personal property to be found in the county of sufficient value the sheriff shall levy upon the lands of the delinquent, or any part thereof; said sheriff shall return a list of said levy to the clerk of the superior court, who shall enter the same in a book to be kept for that purpose, charging therefor ten cents for each levy. The sheriff shall notify the sheriff of such levy and of the day and place of sale by service of a notice, stating these particulars, on him personally. If the delinquent has no known agent in the county, or his address can not with reasonable diligence be ascertained, the sheriff shall publish a notice substantially as above described, at the court-house door, and four other public places, and also in some newspaper published in the county where the land is situated, if there be such newspaper. The notice shall be served or published as aforesaid at least thirty days before the sale of the land; the sale shall be made at the court-house of the county in which the land lies, and shall be on one of the days prescribed for sale of real estate under execution (the first Monday in any month), and shall be conducted in all respects as sales under execution are."

"SEC. 39. The whole tract or contiguous body of land belonging to a delinquent person or company shall be set up for sale at the same time, and the bid shall be struck off to him who will pay the amount of taxes with all the expenses for the smallest part of the land.

"SEC. 41. The delinquent, his agent or attorney, may retain possession of the property for twelve months after the sale, and within that time redeem it by paying or tendering the purchaser the amount paid by him, and 25 per centum in addition thereto."

VII. REMARKS AND GENERAL RECOMMENDATIONS.

Having now reported in detail how I performed, or attempted to perform, every duty to which I was assigned under your said letter of special instructions, and submitted in each case such suggestions and recommendations as I deemed proper, I am constrained to add that through the whole course of my investigations I was confronted on every hand by evidences of the most inexcusable carelessness and neglect or incompetency on the part of former agents. The manner in which the affairs of the band have been attended to since the war of the rebellion is positively shocking. I say this much not to condemn or criticise that which is beyond mending, or to reflect upon any former agent, but simply and solely to show the necessity for reform and improvement in the service at this agency from this day forth.

I respectfully recommend that the agent be required to visit Cherokee and Graham counties once every three months, and stay at least three days among the Indians in Cherokee County and at least a week among those in Graham each time. He should be required to make occasional visits—not less frequently than once every three months—to every Indian settlement in the agency, and look closely after the welfare of his wards. It should be made his duty (and he should delight to perform it) to avail himself of every means or opportunity to encourage them to build better houses, to provide more and better home comforts for themselves and families, and to educate their children. He should also encourage them to raise more live stock and open larger farms, to raise heavier and more diversified crops, and devote more attention to fruit culture. He should try by every possible means to stimulate their ambition to develop, to progress and become self-reliant and thrifty and skilled, at least in the arts of agriculture. I am convinced that, with proper opportunities and encouragement, they could also be taught many of the more useful of the mechanic arts. The agent should also teach them how to market their farm products, including live stock.

For the present they should not be permitted to sell their lands, except with the advice and consent of the agent and the Commissioner of Indian Affairs.

It should also be made the imperative duty of the agent to see that their lands,

that owned in severalty as well as that owned in common, are always correctly listed for taxation and fairly valued. Also that they never suffer any to be sold for taxes.

He should be required to personally investigate, and without delay, every case of intrusion or trespass reported to him by the Indians. He should never let an intruder get a foothold; when once he does, he is hard to deal with. He should call personally—written communications are abominations in such business—upon every intruder or trespasser reported to him, and respectfully request to know by what right he is doing the thing complained of? If he find him obstinate, and is convinced of the truth of the allegations against him, he should forthwith report the facts in an intelligent manner to the Commissioner of Indian Affairs.

During the few months that Mr. Julius L. Holmes has been agent here, he has been zealous and active in promoting the cause of education in the band. He has contributed much towards putting their school system in successful operation, and deserves due credit therefor.

With an agent who will continue to give the same active attention to their educational interests, and at the same time give their business affairs promptly, vigorous, and intelligent attention, the Eastern Band of Cherokees ought to, and in my judgment will, prosper as they have never prospered before.

With great respect, I have the honor to be, sir, your obedient servant,
EUGENE E. WHITE,
U. S. Special Indian Agent.

Hon. J. D. C. ATKINS,
Commissioner of Indian Affairs, Washington, D. C.

EXHIBIT A.

In the circuit court of the United States for the western district of North Carolina, fourth circuit at Asheville, North Carolina.

THE EASTERN BAND OF CHEROKEE INDIANS	} In equity.
<i>Against</i>	
W. H. THOMAS AND OTHERS.	

In the above entitled cause it appearing to the court from record in the cause that on the 23d day of October, 1874, Rufus Barringer, John H. Dillard and T. Ruffin, arbitrators therein appointed, made an award by the terms of which award, among other things, it was awarded that the respondent, W. W. Rollins, should be constituted and appointed an agent, or commissioner of court to receive and cause to be registered in the proper counties, the deeds, contracts, and other muniments of title to the lands awarded in the suit to the said Eastern Band of Cherokee Indians, or to which they have an equitable title, and which were lately owned by the defendants, Thomas and Johnson. And it further appearing to the court that the said Rollins as such commissioner of the court undertook the execution of the trust reposed in him, and in pursuance of the order, received into his possession a large number of such deeds, contracts and other muniments of title. And it further appearing that many of the said deeds have not been registered as directed by the award, and have not been duly accounted for, it is therefore ordered by this court that the said W. W. Rollins show cause, if any he have, before the judge of this court at Asheville, on Wednesday, the 11th day of November, 1885, it being the second week of the term, why he should not properly execute the said award, and particularly that he attach to his answer a schedule of deeds, contracts, and other muniments of title received by him under said award, which of them, if any, he has caused to be registered, in what office, and what disposition he has made of the originals of said deeds, contracts, and other muniments of title.

It is further ordered that the clerk of this court give a certified copy of this award to be served on the respondent.

ROBERT P. DICK,
U. S. Judge.

THE EASTERN BAND OF CHEROKEE INDIANS	} In equity.
<i>vs.</i>	
W. H. THOMAS AND OTHERS.	

Order filed October 28, 1885. Notice issued for W. W. Rollins to show cause at Asheville, before U. S. circuit court, on November 11, 1885, at 10 o'clock a. m.

In the circuit of the United States, western district of North Carolina.

IN EQUITY.

The President of the United States to the marshal of aforesaid district, greeting:

You are commanded to deliver to W. W. Rollins, of Marshall, in the county of Madison, the certified copy of an order made by United States district judge, commanding him to appear as therein directed and show cause as therein commanded. Have you then and there this writ to wit: at Asheville, N. C., Nov. 11, 1885.

OCT. 28, 1885.

JOHN W. PAYNE,
Clerk.

EASTERN BAND CHEROKEE INDIANS, }
vs. } Order for service on W. W. Rollins, of Mar-
W. H. THOMAS AND OTHERS. } shall, N. C.

Executed Nov. 3d, 1885, by delivering to W. W. Rollins a copy hereof.

By DAVID SETTLE, *Marshal.*
R. O. PATTERSON, *Deputy M.*

In the circuit court of the United States, for the western district of North Carolina, fourth circuit, at Asheville, N. C.

THE EASTERN BAND OF CHEROKEE INDIANS }
vs. } In equity.
W. H. THOMAS AND OTHERS. }

W. W. Rollins in answer to the rule served on him in this cause to show cause if any he have, before the judge of this court, at Asheville, on Wednesday, the 11th day of November, 1885, it being the second week of the term, why he should not properly execute the award of the arbitrators in said cause that the said respondent, W. W. Rollins should be constituted and appointed an agent or commissioner of the court to receive and cause to be registered in the proper counties the deeds, contracts, and other muniments of title to the lands awarded in this suit to the said eastern band of Cherokee Indians, or to which they have an equitable title and which were lately owned by the defendants, Thomas and Johnson, respectfully shows to the court:

1. That at the time of the making of said award the said deeds, contracts and other muniments of title, were in custody and under the control of the said court or of the said arbitrators, and this respondent received from the clerk of said court only about ten or a dozen of said deeds, and these he sent to the register of deeds for Jackson County, for registration in said county; the lands embraced in said deeds being situated in said county; and he is advised and believes that all of said deeds so received by him and sent to said register of deeds for Jackson County, were duly registered in said county; that some time after he sent said deeds as aforesaid, he received from the said register of deeds a bill of fees for the registration of the same, amounting as he now remembers to about thirty-eight dollars, which said bill he endeavored to have paid by the Commissioner of Indian Affairs out of moneys belonging to the plaintiff in this suit, but payment was refused by said commissioner, and this respondent thinks, but is not certain or positive, that he paid said bill out of his own private funds; that the respondent before sending said deeds to said register of deeds of Jackson County, made or caused to be made a descriptive list of the same, and retained said list until called upon for said deeds by M. S. Temple, a surveyor appointed by the U. S. Government and as respondent is informed, instructed by the Commissioner of the General Land Office, to survey said lands, when he turned over said list to said Temple.

He was afterwards informed by said Temple, in the city of Washington, that he had received the deeds mentioned in said list, and had also received the other deeds and contracts and would have them registered; and upon the information thus received by your respondent your respondent addressed a letter to J. A. Sibbald, special agent of the Indian Office, a copy of which letter is here shown the court as part of this answer.

That your respondent never after the making of said award had in his possession or under his control any of the deeds, contracts, or muniments of title mentioned in said awards, except those herebefore mentioned. Your respondent, after the appointment of said Temple to survey said lands, never had anything to do with any of said deeds or contracts, but is impressed with the belief by what said Temple stated to him, and by the map of said lands made by said Temple, a copy of which is here shown the court as part of this answer, that said Temple had in his custody all of said deeds and contracts, and made his survey from the same. Your respondent further states that he was told at one time by said Temple that all of said deeds and contracts had been registered.

Your respondent has none of said deeds and contracts in his possession, nor does he know where the same are to be found.

II. Your respondent at one time had in his possession three deeds which he turned over to the parties entitled to have the same, and took receipts therefor, which receipts are here shown the court as part of this answer.

III. Your respondent further says that it is now impossible for him to execute the said award, as he has not and can not obtain the deeds and contracts mentioned therein, and having answered the said rule as fully as he is able to do, and as far as he is advised that it is material he should do, prays this honorable court to make an order in this cause discharging said rule and also discharging this respondent from all further duty or responsibility under said award.

JAMES H. MERRIMON,
Sol. for the Respondent.

W. W. Rollins, being duly sworn, says that he has heard read the foregoing answer and knows the contents thereof; the same is true of his own knowledge, except as to matters therein stated on information and belief, and as to such matters he believes it to be true.

W. W. ROLLINS.

Sworn to and subscribed before me this 11th day of November, 1885.

J. REED,
Clerk U. S. Circuit Court,
Per P. A. CUMMINGS, *Dept.*

THE EASTERN BAND OF CHEROKEE INDIANS }
vs.
W. H. THOMAS AND OTHERS. }

Answer of W. W. Rollins to the rule served upon him in this cause, filed Nov. 11th, 1885.

J. E. REED,
Clerk.

J. H. MERRIMON,
Sol. for Respondent.

Rule continued for the district attorney to file exceptions.

In the United States circuit court at Asheville, N. C.

I, J. E. Reed, clerk of said court, do certify that the foregoing is a true and perfect copy of the record of the foregoing motion.

In witness whereof I hereunto set my hand and affixed the seal of said court this November 25th, 1885.

J. E. REED,
Clerk U. S. Circuit Court.

EXHIBIT B.

SCHEDULE OF DEEDS IN OFFICE OF CLERK OF UNITED STATES COURT AT ASHEVILLE.

No. 1. Deed from Andrew Colvard to Tom Big Meat, dated 11th of March, 1852, tract No. 360, 90½ acres, Cherokee County, district No. 9. Register's Book M, p. 158.

No. 2. Deed, N. W. Colvard to Wallanakah, 100 acres, Cherokee County, Sept. 27, 1856. Not registered.

No. 3. Deed, W. H. Thomas to Young Bird, sec. 364, district 9, on waters of Buffalo, 100 acres, in Cherokee County, April 6, 1861. Not registered.

No. 4. Deed, John B. Allison to W. H. Thomas, October 15, 1853, to two entries of ten thousand acres each, in Cherokee County. Not registered.

No. 5. Deed, George W. Terrell to W. H. Thomas, 209 acres in district 10, in Cherokee County. Not registered.

No. 6. Deed, Young Ammons, 225 acres in district 10, Cherokee County. Not registered.

No. 7. Deed, Thomas J. Roane to W. H. Thomas, for 400 acres in Cherokee County, August 7, 1840. Not registered.

No. 8. Deed, Michael Terrell to Benjamin Queen and Connahkee (or Grass), sec. 26, district 9, 170 acres in Cherokee County, March 24, 1832. Not registered.

No. 9. Deed, David McCoy to W. H. Thomas, sec. 6, 225 acres; sec. 10, 245 acres;

sec. 12, 202 acres; sec. 19, 275 acres, and sec. 23, 288 acres, in all, 1,235 acres, all in district 10, Cherokee County, July 18, 1841. Not registered.

No. 10. Deed, Joel Manney to W. H. Thomas, July 19, 1841, for 1,235 acres in Cherokee County. Not registered.

No. 11. Deed, W. H. Thomas to Cornsilk, Nov. 15th, 1854, for sec. 347, district 9, 100 acres, Cherokee County. Registered p. 319, Book G, Cherokee County.

No. 12. Bond and receipt, J. W. Ray to W. H. Thomas, sec. 6 and 23, district 10, Cherokee County, January 8, 1855. Not registered.

No. 13. Bond, contract, and plat of boundary for lands in Cherokee County from W. H. Thomas to the Indians, October 15, 1850. Not registered.

No. 14. Deed, John McKee and John C. Morris to W. H. Thomas for section 3, district 10, 250 acres in Cherokee County, August 9, 1841. Not registered.

No. 15. Bond of William Johnston to Cherokee chief for title to \$30,000 worth of land, dated September 29, 1869. Registered in Jackson County, January 4, 1870.

No. 16. Boundary line between whites and Indians, made for W. H. Thomas, May 26, 1854. Not registered.

No. 17. Calls of Qualla boundary, by J. W. Terrell, September 18, 1874, and another inclosed by W. H. Thomas of same date. Not registered.

No. 18. Agreement, W. H. Thomas with Cherokees, for perfection of title to "at least 50,000 acres," dated November 15, 1859. Not registered.

No. 19. Deed, Andrew V. Colvard to Tom Big Meat for 100 acres in Cherokee County, dated March 11, 1852, registered p. 156, Book M, Cherokee County.

No. 20. State grant to W. H. Thomas for section 364, district 9, 100 acres Cherokee County, dated June 12, 1851. Not registered.

No. 21. State grant to John R. Doyle and Jesse B. Brooks, for 100 acres in Cherokee County, dated October 15, 1851, registered p. 313, Book G, Cherokee County, December 4, 1854.

No. 22. State grant to Neal M. Colvard, 100 acres in Cherokee County, registered p. 373, Book E, Cherokee County, May 31, 1852.

No. 23. State grant to Andrew Colvard, 100 acres in Cherokee County, February 14, 1852, registered p. 524, Book E, Cherokee County, September 24, 1852.

No. 24. Deed, Andrew Colvard and Mark Colvard to W. H. Thomas, 100 acres in Cherokee County, registered p. 541, Book G, November 23, 1854.

No. 25. State grant to Andrew Colvard, 90½ acres in Cherokee County, February 14, 1852, registered in Cherokee County, September 23, 1852.

No. 26. State grant to Andrew Colvard, 100 acres in Cherokee County, February 14, 1852, registered p. 542, Book E, Cherokee County.

No. 27. State grant to Benjamin Queen, Connahkee (or Grass) for 170 acres, dated April 30, 1852. Not registered.

EXHIBIT C.

Whereas under an award made by Rufus Barringer, John H. Dillard, and Thomas Ruffin, arbitrators in the case of the Eastern Band of Cherokee Indians, against William H. Thomas, William Johnston *et al.*, in the circuit court of the United States for the western district of North Carolina, James W. Terrell and Thomas D. Johnston were by a decree of said court appointed commissioners to sell certain lands referred to in said award to discharge and pay off the judgments therein awarded to be due to William Johnston from William H. Thomas, which said lands had theretofore been sold under executions on said judgments and conveyed by deeds executed by the sheriffs of the counties of Cherokee, Macon, and Jackson, North Carolina, to the said William Johnston; and

Whereas since the date of said decree said judgments have been purchased and duly assigned to the Commissioner of Indian Affairs of the United States, in trust and for the use and benefit of the Eastern Band of Cherokee Indians of North Carolina; and

Whereas under the provisions of an act of Congress, entitled "An act to authorize the Commissioner of Indian Affairs to receive lands in payment of judgments to Eastern Band of Cherokee Indians" approved August 14, 1876 (19 Stat., p. 129), the Commissioner of Indian Affairs was authorized to purchase and receive certain lands therein referred to in full payment and final discharges of the aforesaid judgments in trust and for the use and benefit of said Eastern Band of Cherokee Indians; and

Whereas in pursuance of the provisions of said act of Congress, a deed was made and executed on the fourteenth day of August, in the year of Lord eighteen hundred and eighty, by and between William Johnson and his wife Lucinda M. Johnston, and William L. Hilliard, guardian of William H. Thomas, of Buncombe County, and James W. Terrell of Jackson County, and Thomas D. Johnston, of Buncombe County, commissioners under the said decree of the said circuit court; and said Terrell and Thomas D. Johnston, acting also as agents and attorneys for William H. Thomas, by virtue of a power of attorney to them, dated June third, 1875, of the first

part, and the Commissioner of Indian Affairs of the United States, as trustee for said Eastern Band of Cherokee Indians of North Carolina, of the second part, conveying fifteen thousand two hundred and eleven and one-fifth acres of land fully described therein, including three tracts numbered seven, eight, and nine in said deed, viz:

No. 7. The land awarded to Richard Henson, in section fourteen, in district number five, in Cherokee County, N. C., containing one hundred and three acres.

No. 8. The land awarded to Richard Henson and others, and their heirs, in section eleven, in district number five, in Cherokee County, N. C., containing four hundred and thirty-nine acres.

No. 9. The land (county claim) awarded to Richard Henson, in district number five, in Cherokee County, N. C., containing two thousand one hundred and eighty acres; and

Whereas, William H. Thomas and Daniel F. Ramsaur, for and in consideration of the sum of fifteen hundred dollars, for which ten notes of one hundred and fifty dollars each, payable semi-annually in five years were given, gave a certain bond dated November 1st, 1849, to Richard alias William Henson, Joseph Hynson, and William Henson, junior, to convey two tracts of land on Hanging Dog Creek, being sections eleven and fourteen in district five, in Cherokee County, North Carolina; also one other tract adjoining, being the "County Claim" aforesaid, or donation granted by the State, said lands being the aforementioned tracts numbers seven, eight, and nine, named in deed dated August fourteen, eighteen hundred and eighty aforesaid, upon the payment of the last of said notes; and

Whereas, satisfactory evidence has been furnished, showing that seven hundred and fifty dollars of the purchase money has been paid, and under the laws of the State of North Carolina, the presumption of payment or satisfaction on all contracts and agreements arises within ten years after the right of action on the same shall have accrued. (Revised code of N. C., chapter six, sections eighteen and nineteen, limitations) and

Whereas, the honorable Henry M. Teller, Secretary of the Interior, under date of February fifteen, eighteen hundred and eighty-three, directed the conveyance to Richard (alias William) Henson, Joseph Henson, and William Henson, junior, of such title only to the aforesaid lands as was contracted to be conveyed by William H. Thomas under the aforesaid contract of November first, eighteen hundred and forty-nine, from William H. Thomas, and Daniel F. Ramsaur.

Now this indenture, made this sixteenth day of April, A. D. in the year eighteen hundred and eighty-three, between Hiram Price, Commissioner of Indian Affairs of the United States, as trustee, for the use and benefit of the Eastern Band of Cherokee Indians of North Carolina, of the first part, and Richard alias William Henson, Joseph Henson, and William Henson, junior, of ———, of the second part, Witnesseth, That the said party of the first part for and in consideration of the above recited facts and the sum of one dollar lawful money of the United States of America, to him in hand paid by the said parties of the second part at or before the ensembling and delivery of these presents, the receipts whereof is hereby acknowledged, has granted, remised, released, and quit-claimed, and by these presents does grant, remise, release, and quit-claim unto the said parties of the second part and to their heirs and assigns forever, all the right, title, interest, claim or demand, whatsoever, which became vested in him as trustee for the use and benefit of the Eastern Band of Cherokee Indians of North Carolina, under the deed dated August fourteen, eighteen hundred and eighty, aforesaid, in and to the following described lands, to wit:

"No. 7. The land awarded to Richard Henson in section fourteen in district number five in Cherokee County, N. C., bounded and more particularly described as follows, viz: Beginning on a black oak (fallen) set a post which stands S. 160 poles from No. one connecting line of this tract from which a Spanish oak 4 in. diam. bears S. 12 W. 10 links dist. and a black oak 4 in. diam. bears N. 59 W. 12 links dist.; thence S. 160 poles to a black oak the NW. cor. of No. 4, thence E. 103 poles to a black gum the SW. cor. of No. 9, in the gap of small ridge near the new turnpike road; thence N. 160 poles, reaching corner NW. corner of No. 9 (fallen) set a post; thence W. 103 poles to the beginning, containing one hundred and three acres.

No. 8. The land awarded to Richard Henson and others and their heirs in section eleven, in district number five, in Cherokee County, N. C., bounded and more particularly described as follows, viz: Beginning on a post the NW. cor. of tract No. 9, and the NE. corner of No. 2 of the U. S. survey, from which a white oak 15 in. diam. bears N. 61 E. 42 links dist., and a black oak 19 in. diam. bears N. 61 E. 42 links dist., and a black oak 12 in. diam. bears S. 9 W. 30 links distant; thence E. 160 poles to a post oak on top of hill NE. cor. of No. 9; thence N. passing NW. cor. of No. 8 at 80 poles reaching corner at 439 poles (fallen) set a post from which a sassafras 12 in. diam. bears N. 30 E. 82 links dist. and a chestnut 14 in. diam. bears N. 77 W. 30 links distant; thence W. crossing turnpike road at 124 poles, total distance 160 poles to corner 3 (set a post) from which a red oak 10 in. diam. bears S. 74 E. 15 links dist.

and a pine 12 in. diam. bears N. 10 E. 25 links dist.; thence S. recrossing turnpike road at 70 poles reaching the beginning at 439 poles containing four hundred and thirty-nine acres.

"No. 9. The land ('Bounty claim') awarded to Richard Henson in district number five, in Cherokee County, N. C., bounded and more particularly described as follows, viz: Beginning at a post oak SW. corner of No. 21, from which a post oak 20 in. dia. bears S. 10 W. 20 links dist. and a hickory 6 in. diam. bears N. 82 E. 19 links dist., and a chestnut 6 in. diam. bears N. 22 W. 4 links dist.; thence W. reaching cor. at 139 poles; thence N. 45 W. 48 poles, but found to be S. 72 poles to a hickory (fallen) set a post from which a white — 8 in. diam. bears N. 18 W. 35 links dist. (no other witness tree available); thence W. crossing Hanging Dog at 47 poles reaching corner at 67 poles; thence N. 45 W. 47 poles to corner of No. 20; thence N. 41 poles to a pine in line of No. 20; thence W. reaching cor. at 379 poles and with Fains donation line; thence S. 1 W. reaching cor. at 95 poles; thence S. 20 W. found to be S. 68 W. crossing a small ridge reaching corner at 66 poles; thence S. 9 E. 59 poles, found to be 66 poles; thence S. 8 poles to a post oak NE. cor. of No. 58; thence S. 186 poles passing Campbell Taylor's farm, it being corner of No. 56 (fallen) set a post from which a B. oak 12 in. diam. bears S. 20 E. 35 links distant, and a B. oak 11 in. diam. bears S. 9 W. 35 links dist.; thence N. 57 E., found to be N. 67 E., reaching corner at 77 poles on side of a hill; thence S. 23 E., found to be S. 70 E., reaching cor. at the E. bank of Grape Creek, crossing creek at 79 poles; thence S. 43 E. 28 poles recrossing Grape Creek NW. of No. 61, corner tree fallen, set a post, no witness trees available; thence E. crossing a dim road at 48 poles, passing over rolling land and NE. cor. of No. 61, at 102 poles, reaching NE. cor. of No. 62, at 268 poles; thence S. 123 poles to a post oak SE. cor. of No. 62; thence W. with the line of No. 62, 52 poles to a post oak in said line; thence S. 141 poles to a B. oak in N. boundary line No. 36; thence E. 222 poles with the line of No. 36 and 35 passing its cor. at 60 poles a B. oak and stake is NE. cor. of No. 35; thence N. 120 poles to a small black oak NW. cor. of No. 14 (not found) set a post crossing Hanging Dog Creek at 80 poles; thence E. with the line of No. 14, 166 poles to a small post oak; thence N. passing NW. cor. of No. 16, crossing a small branch at 124 poles, ascending a long ridge, reaching top of ridge at 336 poles, descending hill reaching cor. at 434 poles a hickory in line of No. 44 cut down cor. on a black oak; thence W. passing a SW. cor. of No. 44 at 10 poles, reaching cor. at 100 poles SW. and beginning corner of No. 22; thence N. through flat land, reaching the beginning at 100 poles, containing two thousand one hundred and eighty acres."

Together with all the tenements, hereditaments and appurtenances thereto belonging or in any wise appertaining and the reversion and reversions, the remainder and remainders, rents, issues, and profits thereof, and also all the estate, right, title, interest property, provision, claim and demand whatsoever, as well in law as in equity of the said party of the first part of, in, or to the above described premises, and every part and parcel thereof, with the appurtenances, to have and to hold all and singular the above mentioned and described premises, together with the appurtenances unto the said parties of the second part and their heirs and assigns forever, as fully as the same is held by the party of the first part. The said party of the first part as the trustees aforesaid, has hereunto set his hand and seal the sixteenth day of April, eighteen hundred and eighty-three.

[SEAL.]

H. PRICE,

Commissioner and Trustee as aforesaid.

Signed, sealed, and delivered in the presence of—

E. L. STEVENS.

C. A. MAXWELL.

DISTRICT OF COLUMBIA, *City of Washington*, ss:

I, John E. Beall, a commissioner of deeds and affidavits, appointed by the governor of the State of North Carolina in and for the District of Columbia, do hereby certify that Hiram Price, Commissioner of Indian Affairs, and the trustee named in the foregoing deed personally appeared before me this day and acknowledged the due execution of the foregoing deed.

Witness my hand and official seal this fourth day of May, A. D. 1883.

JOHN E. BEALL,

A Commissioner of Deeds and Affidavits for the State of North Carolina in and for the District of Columbia.

EXHIBIT D.

STATE OF NORTH CAROLINA, *County of Graham*, ss.:

We, W. F. Manney and Lewis H. Smith, both of the county and State above written, do solemnly swear, each for himself, that Eugene E. White did this day, in our presence and hearing as special United States Indian agent, and in the name of the Commissioner of Indian Affairs as trustee for the Eastern Band of Cherokee Indi-

ans residing in North Carolina, demand the payment of eighty dollars principal and fifth-two and $\frac{5}{100}$ interest, total, one hundred and thirty-two and $\frac{1}{100}$ dollars, of Oo-tal-ka-nah, as the son and surviving heir of Dick-a-gees-ka, now deceased, as the whole of the unpaid purchase money due from said Dick-a-gees-ka's heirs on one hundred acres of land in district No. 9, section 367, as shown in the Barringer award, to the end that the said Commissioner of Indian Affairs, as trustee as aforesaid, might invest the heirs of the said Dick-a-gees-ka with complete and perfect title to the lands above described, which payment was then and there by the said Oo-tal-ka-nah refused. And I, Lewis H. Smith, also swear that I did properly and faithfully interpret the said demand to the said Oo-tal-ka-nah, and that he comprehended it.

W. F. HANNEY.
L. H. SMITH.

Sworn to and subscribed before me Nov. 18, 1885.

[SEAL.]

JOHN C. TATHAM,
Clerk.

EXHIBIT E.

STATE OF NORTH CAROLINA, *County of Graham, ss:*

We, W. F. Manney and Lewis H. Smith, both of the county and State above written, do solemnly swear, each for himself, that Eugene F. White did this day, in our presence and hearing, as special United States Indian agent, and in the name of the Commissioner of Indian Affairs as trustee for the Eastern Band of Cherokee Indians, residing in North Carolina, demand the payment of one hundred and sixty-five dollars principal and one hundred and eight and 90-100 dollars interest—total, two hundred and seventy-three and 90-100 dollars—of Oo-tal-ka-nah, as the whole of the unpaid purchase money due from him on one hundred acres of land in district No. 9, section 378, as shown by the Barringer award, to the end that the said Commissioner of Indian Affairs, as trustee as aforesaid, might invest him, the said Oo-tal-ka-nah, with complete and perfect title to the said above-described land, which payment was then and there by the said Oo-tal-ka-nah refused. And I, Lewis H. Smith, also swear that I did properly and faithfully interpret the said demand to the said Oo-tal-ka-nah, and that he comprehended it.

W. F. MANNEY.
L. H. SMITH.

Sworn to and subscribed before me Nov. 19, 1885.

[SEAL.]

JOHN G. TATHAM,
Clerk.

EXHIBIT F.

STATE OF NORTH CAROLINA, *County of Graham, ss:*

We, W. F. Manney and Lewis H. Smith, both of the county and State above written, do solemnly swear, each for himself, that Eugene E. White did this day, in our presence and hearing, as special United States Indian agent, and in the name of the Commissioner of Indian Affairs, as trustee for the Eastern Band of Cherokee Indians, residing in North Carolina, demand the payment of one hundred dollars principal and sixty-six dollars interest—total one hundred and sixty-six dollars—of Nancy Too-way-allah and Ah-nah-sah, surviving heirs of Too-way-allah, now deceased, as the whole of the unpaid purchase money due from Too-way-allah, deceased, on one hundred acres of land in district No. 10, part of section 12, as shown in the Barringer award, to the end that the Commissioner of Indian Affairs, as trustee as aforesaid, might invest the heirs of the said Too-way-allah with complete and perfect title to the said above-described land, which payment was then and there by the said Nancy Too-way-allah and An-nah-sah Too-way-allah refused. And I, Lewis H. Smith, also swear that I did properly and faithfully interpret the said demand to the said Nancy and An-nah-sah Too-way-allah, and that they comprehended it.

W. F. MANNEY.
L. H. SMITH.

Sworn to and subscribed before me Nov. 19, 1885.

[SEAL.]

JOHN G. TATHAM,
Clerk.

EXHIBIT G.

STATE OF NORTH CAROLINA, *County of Graham, ss:*

We, W. F. Manney and Lewis H. Smith, both of the county and State above written, do solemnly swear, each for himself, that Eugene E. White did this day, in our presence and hearing, as special United States Indian agent, and in the name of the Commissioner of Indian Affairs as trustee for the Eastern Band of Cherokee Indians, residing in North Carolina, demand the payment of forty dollars principal and twenty-six and 60-100 dollars—total sixty-six and 60-100 dollars—of Armstrong Cornsilk, as the son and surviving heir of Cornsilk, who is now deceased, as the whole of the purchase money due from said Cornsilk, deceased, on one hundred acres of land in district No. 9, section 588, as shown by the Barringer award, to the end that the said Commissioner of Indian Affairs, as trustee as aforesaid, might invest the heirs of the said Cornsilk, deceased, with complete and perfect title to the said above-described land, which payment was then and there by the said Armstrong Cornsilk refused. And I, Lewis H. Smith, also swears that I did properly and faithfully interpret the said demand, and that the said Armstrong Cornsilk comprehended it.

W. F. MANNEY.
L. H. SMITH.

Sworn to and subscribed before me, Nov. 19, 1885.

[SEAL.]

JOHN G. TATHAM,
Clerk.

EXHIBIT H.

STATE OF NORTH CAROLINA, *County of Cherokee, ss:*

We, Samuel W. Davidson and Marcus L. Brittain, both of the county and State above written, do solemnly swear, each for himself, that we were present at the residence of Alfred Warlick, which is situated on what is known as the "Henson donation" in said Cherokee County, North Carolina, on this the 6th day of November, 1885, and witnessed at said time and place Eugene E. White, as United States Indian agent, and in the name of the Commissioner of Indian Affairs, make formal and legal demand on Irene Warlick, as an heir of Richard Henson, for the sum of twelve hundred and forty-five dollars, the whole of the unpaid purchase money of the "Henson Donation" of twenty-seven hundred acres of land, to the end that the said Commissioner of Indian Affairs, as trustee for the Eastern Band of Cherokees, might invest her, the said Irene Warlick, with perfect title to the said "Henson donation," containing 2,700 acres, and that the said Irene Warlick there and then refused to make such payment.

SAMUEL W. DAVIDSON.
M. L. BRITTAIN.

Sworn to and subscribed before me this 6th day of November, A. D. 1885.

Attest : My official signature and seal of office this day and date above written.

J. C. AXLY, *C. D. C.*
G. P. AXLY, *D. C. S. C.*

[SEAL.]

EXHIBIT K.

State of North Carolina, *County of Graham, ss:*

We, W. F. Manney and Lewis H. Smith, both of the county and state above written, do solemnly swear, each for himself, that Eugene E. White did this day, in our presence and hearing, as special United States Indian agent, and in the name of the Commissioner of Indian Affairs as trustee for the Eastern Band of Cherokee Indians, residing in North Carolina, demand the payment of ten dollars principal and six and 60-100 dollars interest—total sixteen and 60-100 dollars—of Salkanah as the whole of the unpaid purchase money due from her on eighty acres of land in district No. 6, as shown in the Barringer award, to the end that the said Commissioner of Indian Affairs, as trustee, as aforesaid, might invest her with complete and perfect title to the said above-described land, which payment was then and there by the said Salkanah refused. And I, Lewis H. Smith, also swear that I did properly and faithfully interpret the said demands to the said Salkanah, and that she comprehended it.

W. F. MANNEY.
L. H. SMITH.

Sworn to and subscribed before me Nov. 19, 1885.

[SEAL.]

JOHN G. TATHAM,
Clerk.

EXHIBIT L.

STATE OF NORTH CAROLINA, *County of Graham, ss:*

We, W. F. Manney and Lewis H. Smith, both of the county and State above written, do solemnly swear, each for himself, that Eugene E. White did this day, in our presence and hearing, as special United States Indian agent, and in the name of the Commissioner of Indian Affairs as trustee for the Eastern Band of Cherokee Indians, residing in North Carolina, demand the payment of twenty dollars principal and thirteen and 20-100 interest—total thirty-three and 20-100 dollars—of Armstrong Cornsilk, as the son-in-law and heir-at-law of Coheloska, who is now deceased, as the whole of the unpaid purchase money due from said Coheloska, deceased, on one hundred and twenty acres of land in district No. 9, section 93, as shown in the Baringer award, to the end that the said Commissioner of Indian Affairs, as trustee as aforesaid, might invest the heirs of the said Coheloska, deceased, with complete and perfect title to the said above-described land, which payment was then and there by the said Armstrong Cornsilk refused. And I, Lewis H. Smith, also swear that I did properly and faithfully interpret the said demand to the said Armstrong Cornsilk, and that he comprehended it.

W. F. MANNEY.
L. H. SMITH.

Sworn to and subscribed before me Nov. 19, 1885.
[SEAL.]

JOHN G. TATHAM,
Clerk.

EXHIBIT M.

List of lands owned in common and in severalty by the Eastern Band of Cherokee Indians, as assessed for taxation in Swain, Jackson, Graham, and Cherokee counties, North Carolina, showing the status of such lands in the matter of taxes for 1885, and previous years, as shown by the tax rolls in the said above-named counties.

SWAIN COUNTY.

Name of owner.	Acres.	Name.	Value.	Amt. taxes.
Smith, N. J., Chf.....	5, 250	Ind. bound'y.....	\$6, 191	\$61. 00
Smith, N. J.....	52	Holland's field.....	600	6. 00
Smith, Henry.....	45	Mouth of Soco.....	155	1. 60
Ben Brown's wid.....	50	Bird Town.....	450	4. 50
Allen, Will.....	25	do.....	25	. 25
Kegg, Jim.....	74	do.....	770	7. 70
Junaluska.....	150	do.....	500	5. 00
Sequayah.....	84	Raven Forks.....	175	1. 75
Sherrell, James.....	6	do.....	20	. 20
Toe, Johnston.....	160	do.....	400	4. 00
Welch, Isaac.....	83	do.....	300	3. 00
Wolf, Jowawa.....	47	do.....	200	2. 00
Jim Teoatla.....	69	do.....	250	2. 50
Abraham Hill.....	150	do.....	800	8. 00
John Wain.....	61	Bird Town.....	150	1. 50
John Taylor.....	37	do.....	775	7. 75
Squinney Bird.....	77	do.....	683	6. 85
John Long.....	44	do.....	250	2. 50
Conteskee.....	50	do.....	300	3. 00
John Susan.....	173	Raven Forks.....	173	1. 75
Wild Cat.....	15	Bird Town.....	100	1. 00
Joe Standing Deer.....	68	Mountain.....	30	. 30
Netly Leon.....	71	Yellow Hill.....	45	. 45
John Woodfin.....	160	Pigeon Land.....	550	5. 50
Lallie Boss.....	54	Bird Town.....	100	1. 00
Sampson Welch.....	27	do.....	25	. 25
Come-back Wolf.....	148	Big Corn.....	400	4. 00
Wilson Wolf.....	175	do.....	500	5. 00
Ne-to-nah.....	20	Big Corn.....	100	1. 00
Jo Welch.....	20	Poplar Hollow.....	100	1. 00
Watta James.....	78	Big Corn.....	125	1. 25
Willatee Davis.....	177	Bird Town.....	400	4. 00
Miss Catalstah.....	150	do.....	500	5. 00
John Ging.....	40	Yellow Hill.....	100	1. 00
Yonah Skin.....	60	Bird Town.....	600	6. 00
Adam Ned.....	90	do.....	200	2. 00
Widow Saddle.....	24	do.....	250	2. 50

SWAIN COUNTY—Continued.

Name of owner.	Acres.	Name.	Value.	Amt. taxes.
Old Man Ned	113	Bird Town	\$350	\$3.50
Dave Partridge	24	do	120	1.20
Chulatooskee	145	Big Corn	600	6.00
Willie Wolf	56	do	225	2.25
Will Cheataska	68	do	100	1.00
Lewis Axe	346	do	1,500	15.00
Sam Wolfe	60	do	400	4.00
Te-nah-ca-leck	61	do	250	2.50
Big Jim	214	do	850	8.50
Becky Wolf (guardian)	219	do	1,000	10.00
John Pleasant	143	do	800	8.00
Becky Wolf	36	do	200	2.00
Simpson Sawnook	300	Hollands Field	2,500	25.00
Sua-tauga	23	do	650	6.50
Stillwell Sawnook	100	Yellow Hill	200	2.00
Bird Solomon	32	do	32	.32
Caroline Stamper	22	Yellow Hill	650	6.50
Sa-ya-matah	62	Hollands Fld	900	9.00
Jimi Taylor	60	Mountain	30	.30
John and Jim Oosowee and H. Smith	35	Yellow Hill	250	2.50
Moses Wolf	45	Yellow Hill, lot 25	40	.40
Posey Sawnook	43	Yellow Hill	350	3.50
Clay Catayeeskne	71	do	500	5.00
Snate Owl	40	do	400	4.00
Lona Owl	103	do	1,000	10.00
Wolf Sam Again	183	Big Corn	600	6.00
Charlie Nilors	90	do	175	1.75
John Wilson	46	do	200	2.00
John Wolf	164	do	425	4.25

GRAHAM COUNTY.

Smith, N. J., principal chief, Eastern Band of Cherokee Indians	101	Ooyahsteah	\$100	\$1.00
.....	63	Cahnantogo	60	.60
.....	133	Cohutaska	250	2.50
.....	234	Tutalkanah	300	3.00
.....	128	No. 17	128	1.25
.....	67	No. 37	67	.65
.....	154	No. 87	154	1.55
.....	104	No. 88	104	1.05
.....	134	No. 99	134	1.35
.....	95	No. 103	95	.95
.....	197	8 Dist. 10	195	1.95
.....	100	Toonallookee or Stump	150	1.50
Ootalka Dick-a-gees-ka	500	Farm and mountain	540	5.40
Colonecheskee	200	do	250	2.50
Ground Squirrel per Morgan Wolf	250	Mountain	600	6.00
Armstrong Cornsilk	250	do	200	2.00
John Tarquittah	37	do	150	1.50
Big Fat	100	do	150	1.50
Tract 56	314	Dist. No. 1	314	3.15
Tract 57	253	do	233	2.30
Tract 58 .....	.....	do .....	.....	.....
Tract 54	92	do	92	.92
Tract 60	96	do	96	.95
Tract 97	67	do	67	.65
Tract 61	281	do	281	2.80
Tract 99	78	do	78	.80
Rope Twister	220	Mountain	350	3.50
John Rope Twister	32	do	32	.30
Sakee	200	do	300	3.02
Too-wa-allah	50	do	75	.70
Tuckanahcutia	150	do	50	.55
Teescetaska	60	do	62	.60
Will Teescetuskah	75	do	75	.70
Tom Tuoatla	140	do	250	2.55
Noah Tahquittah (deceased)	39	do	39	.30
Anna Tahquittah	31	do	31	.39
Jake Cheer	100	do	100	1.00
Chickatillah	100	do	150	1.50
John Teeseteeskah	100	do	100	1.00
Sarah Sheskee	50	do	75	.70
Martha Tahquittah	29	do	29	.35
L. H. Smith	231	do	184	1.80
Tract 99	115	District No. 1	115	1.15
Tract 100	160	do	160	1.65
Tract 15	50	District No. 6	50	.50
Tract 16	75	do	75	.70
Tract 32	247	do	247	2.55
Tract 34	217	do	217	2.10

GRAHAM COUNTY—Continued.

Name of owner.	Acres.	Name.	Value.	Amt. taxes.
Tract 35	205	District No. 6....	\$205	\$2.05
Tract 48	86	do	86	.85
Tract 53	124	do	124	1.25
Tract 57	60	do	60	.65
Tract 59	60	do	60	.60
Tract 64	68	do	68	.60
Tract 65	80	do	80	.85
Tract 93	180	do	160	1.80
Tract 95	331	do	331	3.30
" 105	73	do	73	.75

CHEROKEE COUNTY.

Henson heirs, donation	3,067	.....	\$3,000	\$30.00
Comr. Indian Affrs	2,206	.....	2,000	20.00
Locust, Wm	50	.....	47	.45
Locust, John	50	.....	47	.45
Smith, Ross B	539	.....	900	9.00
" Charlotte	643	Mountain land....	300	3.00
Jackson, Jennie	50	.....	50	.50
James Murphy	50	.....	100	1.00
Jacob Bird	60	Mountain land....	75	.75
Locust Drewry	38		56	.55

JACKSON COUNTY.

Indians	15,000	Indian b'd'y	\$15,000	\$87.50
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LANDS SOLD FOR TAXES.

The "Henson lands" were sold Sept. 1, 1885, for the taxes due thereon for the years 1881, 1882, and 1884. Irene Warlick was the purchaser at \$82.25. Amount necessary to redeem, \$103.50. Time within which redemption may be made will expire Sept. 1, 1886.

Two hundred and fifty acres of the lands of the band in common in Graham County were sold May 13, 1882, for \$18.08 due thereon for 1881, Geo. W. Walker being the purchaser.

The time allowed for redemption expired May 13, 1883, but Mr. Walker will quit claim upon payment to him of the amount necessary to redeem under the law, to wit, \$22.58, with 6 per cent thereon from date of sale.

Andrew Shields has possession of section No. 90, in district 9, 141 acres, in Graham County, and claims to have purchased it at sheriff's delinquent-tax sale May 13, 1882, but I could find no evidence of such sale on the records of Graham County.

[House Ex. Doc. No. 196, Forty-seventh Congress, first session.]

EXHIBIT G.

Letter from the Secretary of the Interior, in response to resolution of the House of February 25, 1882, relative to the lands and funds of the Eastern Band of North Carolina Cherokees.

DEPARTMENT OF THE INTERIOR,
Washington, May 8, 1882.

SIR: I have the honor to acknowledge the receipt of a resolution of the House of Representatives of 25th February last, calling on this Department for certain information on matters therein specified relative to the Eastern Band of Cherokee Indians residing in North Carolina.

The information called for has been prepared in the office of the Commissioner of

Indian Affairs, a copy of whose report of 26th ultimo, with accompanying papers therein referred to, will be found herewith.

Touching the concluding portion of the resolution, which refers to trespasses upon the lands of these Indians by white settlers, and what steps, if any, are necessary to be taken in order to protect the Indians in their rights, attention is respectfully invited to the suggestion of the Commissioner (on page 102 of his report, before referred to), in which this Department concurs, to wit, whether it would not be advisable for Congress to pass an act placing these people under the jurisdiction of the United States district court for the western district of North Carolina. As a precedent for such action, attention is invited to the eleventh section of the act of July 15, 1870 (16 Stat., 362).

Very respectfully, your obedient servant,

H. M. TELLER,
Secretary.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
April 26, 1882.

SIR: I have the honor to acknowledge the receipt, by Department reference for report, of a resolution of the House of Representatives, Forty-seventh Congress, first session, passed February 25, 1882, as follows:

"Resolved, That the Secretary of the Interior be requested to inform the House of Representatives of the present condition of the Eastern Band of the Cherokee Indians residing in North Carolina, what lands they own as a band or tribe or in severalty, and what amount of money, if any, said Indians have in the Treasury of the United States, or what amount of bonds, if any, are held by the United States in trust for them. That he inform this House fully as to what proceedings were taken in the year 1874 and since that time, either by the United States or by said band, with the consent and advice of the United States, for the recovery of lands in the State of North Carolina claimed by said Indians, or for the recovery of moneys from their late agent, or for the adjustment of their accounts with any of said agents. Also, whether any awards were made in favor of said Indians by any board of arbitrators or any court in respect to lands, moneys, or accounts; and if so, what said award was, and specifically the action taken by his Department in respect to the same up to the present time. That he also furnish copies of any contract or contracts made by said Indians, with any attorney or attorneys, relating to the prosecution of said claims for land, moneys, or the adjustment of said accounts, and what action has been taken by his Department with respect to said contracts, what payments have been made to said attorney or attorneys, if any, by reason of services performed by them under said contracts, and what, if any, is still claimed by said attorney or attorneys to be due on account of said services. That he also inform this House what disposition has been made by his Department of the moneys belonging to said Indians referred to in an act of Congress approved March 3, 1875. That in giving the information relative to these moneys he shall state in detail each item of expenditure, the purpose for which the same was expended, and the authority of law for the payment of each item, and shall state what amount of money was placed at the disposal of his Department by said act, and how much, if any, remains unexpended.

"It is further requested that the honorable Secretary furnish this House with any information he may be able to give concerning the settling of whites upon the lands of the Indians, and what steps, if any, are necessary to be taken in order to protect the Indians in their rights."

In reply, I have to report that these Indians are located upon lands in Cherokee, Graham, Jackson, and Swain counties, in North Carolina. Most of their lands, however, lie in Jackson and Swain counties, and are known as the "Qualla boundary," comprising about 50,000 acres. Their other lands lying in the four counties are in detached tracts and aggregate 15,211 acres.

The title to these lands had for several years been the subject of litigation growing out of the fact that the deeds for these lands, purchased with tribal funds at sundry times in 1861 and previously by the late United States Indian agent, William H. Thomas, had been taken in the name of the agent instead of in the name of the Indians. Agent Thomas contemplated, no doubt, when he had completed his purchases, conveying the same to the Indians. Before the execution, however, of such a purpose the war came on, and Mr. Thomas being involved in debt and having become insane, nothing was done until Congress, by the eleventh section of the act of July 15, 1870 (16 Stats., p. 362), authorized and empowered these Indians to institute suit in the circuit court of the United States for the western district of North

Carolina against said Thomas for all claims, including lands, which they might have against him.

The eleventh section of said act is as follows:

"And be it further enacted, That the Eastern Band of the Cherokee Indians, by that name and style, be, and they are hereby, authorized and empowered to institute and carry on a suit or suits in law or equity in the district or circuit courts of the United States against the present or former Indian agent or agents of said band, their administrators, executors, and heirs, and against the securities of such agent or agents, their administrators, executors, curators, or trustees, for all claims, causes of suit, or rights in law or equity that said band may have against them or either of them; and the law of limitation shall apply to such claims, causes of action, and rights from and after the day this act takes effect. It shall be the duty of the district attorneys and the Attorney-General of the United States to institute and prosecute all suits, cause for which may arise under this section."

In pursuance of this authority, in May, 1873, a suit in equity was instituted in the circuit court of the United States for the western district of North Carolina by the Eastern Band of the Cherokee Indians against William H. Thomas and William Johnston, seeking to subject the said Thomas, as agent and trustee of the plaintiffs, to an account and settlement for large sums of money alleged to have been received by him for the benefit of the plaintiffs from the United States, from the year 1836 to the year 1861; which moneys, it was alleged, had been or ought to have been invested by him, according to various contracts made by the said Thomas from time to time with said Indians, in certain boundaries of land for the benefit of plaintiffs, as a tribe or community, and in a number of separate tracts of land for individual members of said Eastern Band of the Cherokee Indians. It was further alleged that the legal title to all of said lands was held by the said Thomas in his own name.

It was alleged against the other defendant, William Johnston, that in the year 1869 he had procured a sale of all of said lands by the sheriffs of the several counties in which they were situate to satisfy judgments which he, Johnston, had previously obtained in the courts of North Carolina against said Thomas; and that Johnston had bought the lands at said sales, and had taken said sheriffs' titles therefor to himself, with a knowledge of the subsisting equities of the Indians. It was further alleged that Johnston, after said sheriffs' sales, in September, 1869, had entered into a contract with certain of the said Eastern Band of the Cherokee Indians to release to them, for their tribe, all the right which he claimed to have acquired by said sheriffs' sales to said lands for the sum of \$30,000, payable within eighteen months after the date of said contract; and that the Indians had paid him at the time said contract was executed the sum of \$6,500.

An action at law was commenced at the same time as the above-mentioned suit in equity, by the same plaintiffs, against James W. Terrell, their former agent from 1853 to 1861, and his sureties, the said Thomas and Johnston, to recover a balance of their moneys which he had received for their use from the United States, and which, as it was alleged, he had not properly accounted for.

At the May term, 1874, of the said circuit court of the United States, the parties to the above two causes entered into an agreement, in writing, to submit all matters of dispute and controversy between them to Messrs. Rufus Barringer, John H. Dillard, and Thomas Ruffin, their award to be final and a rule of the court; said submission to have effect from the approval thereof by the Hon. R. P. Dick, judge of said court, the Secretary of the Interior, the Commissioner of Indian Affairs, and the Department of Justice. This agreement was approved June 17, 1874, by all the said several officers, and the arbitrators undertook the work thereby imposed upon them.

On the 24th day of October, 1874, they made and filed their award, which was confirmed at the following November term of the said United States circuit court held at Asheville.

The award found: That William H. Thomas was the agent of the plaintiffs from the year 1838, and, as such, undertook to purchase, and did purchase for them, lands paid for with moneys coming to them from the United States; that from time to time, and from various persons, he purchased lands for them as a tribe and community and settled them thereon; which purchases comprise the large tract situated on Soco Creek and the Ocono Lufta River and their tributaries, known as the Qualla boundary, described by metes and bounds—area estimated by the arbitrators at over 50,000 acres; that within the said Qualla boundary the said Thomas sold and conveyed, by deed, several tracts to individual Indians (naming them) and received from them, respectively, the purchase money; that he also contracted, in writing, to sell several other tracts within said Qualla boundary to individual Indians (naming them) and received from them, in whole or in part, the purchase money. It was therefore awarded—

"That the general boundary, known as the Qualla boundary, and above described, belongs to and shall be held by the Eastern Band of Cherokee Indians, living in the

State of North Carolina as a tribe or community, and whether living at this time at Qualla or elsewhere in the State; and that the individual Indians above named as holding under said Thomas, either by deed or contract, shall hold and possess their several tracts as their separate property, with the quality of being inheritable, but without the power of alienation except from one Indian to another, and then only with the assent of their council; all the above, however, to be subject to the payment of a sum of money to William Johnston, as hereinafter provided."

The award then determined the titles of a large number of individual Indians and persons of Indian blood to tracts of land outside of the Qualla boundary, and decreed that conveyances should be made to them by Thomas and Johnston upon the terms and according to their right as specified in the title bonds or contracts as the case might be. That those individual Indians (naming them) who had respectively an equity, to have title, should have said title made to them by the said Thomas and Johnston upon the payment of the purchase money still due from them; and the said Thomas or Johnston, as the case might be, should have a right, in default of such payment of the purchase money, to enforce the same by sale of their lands, respectively, according to law. Beyond this the records of this office do not show what lands are held in severalty.

The award found that the plaintiffs owed Thomas a balance toward the purchase money of the Qualla boundary of \$18,250; that after the purchase of the said lands by Johnston under his executions against Thomas, Johnston obtained from certain of the plaintiffs on his contract of September 29, 1869, for the redemption of said lands by the Indians, the sum of \$6,500, which, with interest to the date of the award, amounted to \$8,486, it was awarded Johnston should apply, as a credit on his said judgments against Thomas, as money paid by the plaintiffs toward the balance above stated as due from them to Thomas, thus reducing said balance due Thomas to the sum of \$9,764.

In the suit at law on the bond of Terrell and his sureties, the award found: That Terrell was liable to the plaintiffs for the sum of \$2,697.89, being the sum of \$24.78 that Terrell paid over to Thomas, not in strict compliance with law, and interest thereon, and that that sum be deducted from the above balance of \$9,764, thus reducing it to the sum of \$7,066.11 (which sum, with interest, \$7,242.76, was paid April 3, 1875), and upon the payment of which, with 6 per cent interest from the date of the award, to the defendant Johnston, and by him to be entered as a credit on his said judgments against Thomas; and that the plaintiffs should have a perfect equity to demand and have of him, the said Johnston, a conveyance of the legal title to all the lands embraced within their said Qualla boundary, the same to be made to them or to some trustee for them; and until such conveyance was made the said Johnston, so soon as said balance was paid him, should himself stand seized as a naked trustee of said lands to the use of said plaintiffs. The award further found: That to secure repose of title to the parties and to end litigation between them, that all accounts, claims, and demands between the plaintiffs as a tribe, and each and every member of the tribe, wherever residing in the State of North Carolina, and William H. Thomas and William Johnston, and either of them, were to be treated as concluded and adjusted between them, and in no way collectable and enforceable save and except as was thereinbefore provided in relation to contracts for sales of land, and save and except the matters of controversy between the members of the Raper family in regard to their reservation money.

It was further awarded: That all deeds to Thomas under which the said Indians claim, and all his deeds and written contracts of sale to them, or any of them, should be registered in the proper offices of the State; to that end awarded that all such deeds and contracts be delivered to W. W. Rollins, one of the plaintiffs' agents, for registration; and that the said Thomas be allowed 10 per cent on all moneys said Indians may hereafter receive from lands sold for their benefit west of the Mississippi River, to be paid when the same was actually realized by the said Indians, and not otherwise; and that the costs in the suit at law having been disposed of, that all the other costs be taxed in the equity case and be paid one-half by the plaintiffs and the other half by the defendants, W. H. Thomas and William Johnston.

By the sundry civil appropriation act of June 23, 1874 (18 Stats., p. 213), the sum of \$15,000 was appropriated to defray the expenses of surveying the land of the Cherokee Indians of North Carolina recovered in the suit against William H. Thomas, and the survey was made by Mr. M. S. Temple of the outbounds of the Qualla boundary and the various individual tracts therein, also such other separate and detached tracts of land outside of Qualla boundary as could be identified by title deeds or field notes.

By the deficiency appropriation act of March 3, 1875 (18 Stats., p. 412), the sum of \$15,000 was appropriated to pay the costs adjudged against the Eastern Band of the Cherokee Indians in the suits at law and in equity between them and William H. Thomas and others, determined in the circuit court of the United States for the western district of North Carolina, and including compensation to special counsel

and for other purposes, in pursuance of the act of Congress of July 15, 1870, and by the Indian appropriation act of March 3, 1875 (18 Stats., 447), it was enacted—

“That the fund set apart in the Treasury of the United States by virtue of the fourth and fifth sections of the act of Congress entitled ‘An act making further appropriations for the current and contingent expenses of the Indian department and for fulfilling treaty stipulations with the various Indian tribes for the year ending June thirtieth, eighteen hundred and forty-nine, and for other purposes,’ approved July twenty-nine, eighteen hundred and forty-eight, shall be applied, under the direction of the Secretary of the Interior, for the use and benefit of the Eastern Band of Cherokee Indians, to perfect the titles to their lands recently awarded to them by a decree of the circuit court of the United States for the western district of North Carolina, to the payment of such costs, charges, expenses, and liabilities attending their recent litigations in the said court as the Secretary of the Interior may determine to be properly chargeable to them; to purchase and extinguish the titles of any white person or persons within the general boundaries allotted to them by the said decree of said court; and for the education, improvement, and civilization of the said Indians.”

At the time of the award of Barringer, Dillard, and Ruffin, in the case of the Indians *vs.* William H. Thomas, it was agreed, September 11, 1874, by and between the said Thomas and William Johnston, to refer certain matters of dispute between themselves to the final arbitrament and award of these same arbitrators, who awarded: That there was due to William Johnston from William H. Thomas, three judgments, as follows:

Judgment in Buncombe supreme court	\$13, 198. 40	
Interest from October 15, 1858, on \$11,215.48, to September 14, 1874, 15 years and 11 months	10, 093. 85	
		\$23, 292. 25
Judgment in Buncombe superior court	7, 616. 66	
Interest from June 10, 1867.....	2, 175. 00	
		9, 791. 66
Balance of R. B. Johnston's judgment, \$417.31, and interest		803. 20
Aggregate.....		33, 887. 11
Subject to the following credits: \$6,500 paid to William Johnston by Cherokees under contract of September, 1869, with interest thereon to the date of the first award	8, 486. 00	
Amount due from Eastern Cherokees, as per award	7, 066. 11	
		15, 552. 11
Balance		18, 335. 00

And that amount, \$18,335.65, was awarded as the true amount of indebtedness of William H. Thomas to William Johnston, which he is entitled to collect with interest until paid, together with the court's costs taxed in the said three judgments. The award further found that said William Johnston held sheriffs' deeds of Jackson and other counties for various tracts of land sold as the property of said Thomas and not embraced in the lands held by him in trust for the Indians under executions issued on the three judgments hereinbefore described; that said lands were bought by the said Johnston at greatly less than their fair value, for reason of clouds on the title and forbiddals at the sales, and therefore the said several sheriffs' deeds should be held as a security merely for the balance aforesaid due on said judgments and the costs taxed or taxable on each; that James W. Terrell and Thomas D. Johnston should make sale of the lands mentioned in the said sheriffs' deeds other than those tracts awarded to belong to the Cherokee Indians, as a tribe or individually, or so much thereof as might be sufficient on the terms, viz, one-fourth cash, and the balance in one and two years, in equal installments, with interest from the day of sale, and out of the proceeds to pay and satisfy the said balance of \$18,335.65, with interest and costs, as aforesaid.

After the rendition of said award, Mr. Johnston offered to transfer and assign these judgments to the Eastern Band of Cherokee Indians or properly authorized trustees on their behalf.

On information furnished by James Taylor, May 26, 1875, urging enforcement of the foregoing act of Congress, and, in compliance with department instructions, this office made report June 2, 1875, stating that the best interests of the North Carolina Cherokees require that the proposition of Mr. Johnston to sell the Cherokees a judgment held by him against William H. Thomas, which was a lien upon numerous tracts of land within the Cheoah boundary, as well as other lands outside of that boundary, should be accepted. The interest of 46 Indian families were involved in these judgments, which, if not purchased, would be sold in satisfaction of said judgments. The original proposition of Mr. Johnston, for the sale of the judgments and a statement by J. W. Terrell, the delegate of the Eastern Cherokees, as well as a

copy of the award of the arbitrators, were submitted to Hon. William Stickney at the time of his appointment on the commission to inquire into the affairs of these Indians, and he confirmed the opinion that the judgments should be purchased.

The proposition of Mr. Johnston was to sell the judgments for the sum of \$18,335.65, with interest from October 25, 1874, and the cost of said judgment, \$72.55 = \$18,408.20. Mr. Terrell urged its acceptance, and Agent McCarthy favored the proposition, because by it the rights of all parties were clearly provided for, not only of the Indians, but also of Mr. Thomas.

On these facts recommendation was made by this office that authority be given Agent McCarthy to buy in behalf of the Eastern Cherokees the aforesaid judgments for the sum of \$18,408.20, and because said judgments were a lien upon the lands of these Indians. Secretary Delano, on June 3, 1875, authorized the purchase. Instructions in accordance therewith were issued June 5, 1875, to Agent McCarthy for the purchase of said judgments, and a requisition issued for the money on the same day.

Subsequently, on June 9, 1875, Secretary Delano modified his instructions on the 3d, then instant, respecting the purchase of said judgments, and directed that Agent McCarthy should consult Marcus Erwin, assistant district attorney for the western district of North Carolina, and not purchase the judgments unless Mr. Erwin should be of opinion that they were liens upon certain lands of the North Carolina Cherokees, and that the best interests of said Indians required their purchase; and further, that if Mr. Erwin should be of opinion that the interests of the Cherokees required the purchase of the judgments, the concurrence of the commissioners, Stickney, Beard, and McCarthy, appointed to investigate certain matters pertaining to the North Carolina Indians, should also be obtained before purchase, unless the delay for such concurrence should be dangerous, when purchased, the judgments to be assigned to the Commissioner of Indian Affairs, in trust, and for the use of the Eastern Cherokees of North Carolina. These modified instructions were issued to Agent McCarthy on June 10, 1875.

Under date of July 27, 1875, Agent McCarthy reported his purchase of the judgments, under instructions of June 5 and 10, 1875, from Thomas D. Johnston (who held power of attorney from William Johnston) for the sum of \$19,245.53, including \$18,335.65, amount of principal; \$72.55, costs taxed, \$18,408.20; with interest on \$18,355.65 from October 23, 1874, to July 27, 1875, 9 months and 4 days, \$837.33 = \$19,245.53. These judgments were assigned to the Commissioner of Indian Affairs, in trust, for the Eastern Band of Cherokee Indians in North Carolina.

On November 11, 1875, E. C. Watkins, Indian inspector, was instructed to visit the North Carolina Cherokees and make careful inquiry in regard to the particulars connected with these judgments, the value of the property that was acquired under them, reporting all facts that would enable this office to have a full understanding in the premises and that would form a guide for action in the future. Under date of January 22, 1876, this office submitted to the Secretary of the Interior the report of Inspector Watkins, dated December 18, 1875, concurring in the views and conclusions expressed by him, especially in reference to the method of perfecting the title acquired to certain lands by the purchase of the judgments of William Johnston *vs.* William H. Thomas, believing that quitclaim deeds of all the lands for which Johnston held sheriffs' deeds should be taken from him in favor of Commissioner of Indian Affairs, as trustee for the Eastern Band of Cherokee Indians of North Carolina, in accordance with the assignments of said judgments.

Recommendation was made, as suggested by Inspector Watkins, that a suitable person be designated by the Department to act in behalf of the Eastern Cherokees, under office instructions, in connection with J. W. Terrell and Thomas D. Johnston, named in the second award of the arbitrators as commissioners to resell the lands to satisfy said judgments; that said three persons appraise the lands occupied by Indians outside of the Qualla boundary, and conveyed to William Johnston by said sheriff's deeds, together with such other lands covered by said deeds and contiguous thereto as might be necessary to satisfy said judgments, and that trust deeds be executed by said Commissioners Terrell and Johnston in favor of the Commissioner of Indian Affairs, and the judgments satisfied, if this could be legally done under the award. But should it be deemed advisable for Commissioners Terrell and Johnston to proceed to sell the lands, in technical compliance with the terms of the award, the person designated by the Department could, in that case, buy the lands on behalf of said Indians to the extent of a full satisfaction of the judgments and receive deeds therefor in the name of the Commissioner of Indian Affairs as trustee for the Eastern Band of Cherokee Indians.

Under directions of the Secretary of the Interior this officer, on March 13, 1876, instructed William Vandever, Indian inspector, to visit North Carolina with a view to perfecting the title to the lands occupied by the Eastern Cherokees, upon which the judgments, amounting to \$19,245.53, in favor of William Johnston, were liens, as it was then believed that the provisions of the acts of March 3, 1875, under which

the purchase of the judgments was made, did not justify such purchase except as a measure or method to perfect titles in certain tracts of land bought from Thomas by individual Indians named in the award, and upon which partial payments were made by them to Thomas. To protect and perfect these titles Gen. Vandever was instructed to ascertain (1) the cash value of the lands upon which the judgments in question were liens; (2) the quantity of such lands in each case included in the purchase made by individual Indians, and the actual value thereof; (3) the amounts paid by such individuals upon the tracts purchased; (4) whether there were not among such purchases cases where the improvements made were so trifling in amount as to render the completion of the purchase of the land undesirable; (5) and to furnish full information regarding the title to the lands in question, and particularly to any sales thereof that had been made by the local authorities of North Carolina for taxes.

On April 10, 1876, Inspector Vandever made his report, which set forth that the second award made by the arbitrators was a private affair between Thomas and Johnston, and in no wise connected with first award; that notwithstanding the purchase of the judgments in favor of Johnston at the value estimated in said second award, viz, \$18,335.65 and interest, that Messrs. J. W. Terrell and Thomas D. Johnston, commissioners named in the second award to sell the lands, did proceed to sell and convey certain tracts of land which were affected by the purchased judgments; that the second award was placed in the hands of N. W. Woodfin, an attorney, by agreement between Messrs. Thomas and Johnston, and that the court was not asked to take any cognizance of it. After the death of Mr. Woodfin, at the November term, 1875, of the United States circuit court, a motion was made to have the said award admitted to record, which was ordered, when said Commissioners Johnston and Terrell filed a report of their proceedings, and the court confirmed their authority to act; that the lands were thought to be ample to reimburse the money expended in the purchase of the judgments, and to satisfy all the claims of the Indians against Thomas, but there was doubt about the authority or the legality of the acts of these commissioners, and that they should be restrained from proceeding further with the disposition of these lands.

In view of these complications Inspector Vandever recommended the appointment of an agent or commission, with the consent of all the parties, whose duty it should be to appraise the lands held subject to these judgments, and to take so much of them as might be required to fulfill the stipulations of the award in favor of the Indians and to reimburse the amount paid for the judgments, after which the balance of the land, if any remained, should be released to Mr. Thomas.

At the same time Inspector Vandever submitted the proceedings of a special council of the Eastern Band of Cherokee Indians, held at the Cheoah Council Grounds, in Graham County, North Carolina, on the 13th and 27th days of March, 1876, where a proposition, dated Murphey, N. C., March 2, 1876, from James W. Terrell and Thomas D. Johnston, acting under powers of attorney from William H. Thomas and William Johnston, as well as commissioners under the award of Thomas and Johnston, was submitted to the Indians in council and by them accepted and adopted.

The proposition was as follows:

"First. That the judgments shall be credited with the amounts now due on the notes of individual Indians for lands sold to them by said Thomas in said Cheoah boundary, and which said contracts were confirmed and adjudicated to be binding on the parties, as will appear by reference to the award in the case of Eastern Band of the Cherokee Indians *vs.* William H. Thomas *et al.*, on file in the aforesaid cause, and thereupon said notes to be canceled and titles executed by us in pursuance of the authority vested in us by said award and powers of attorney in pursuance of said award.

"Second. That we execute title in pursuance of said award and powers of attorney for all the balance of the unsold Thomas lands lying in said boundary whenever said judgments shall be credited with the amount of \$1 per acre for said lands, the number of acres to be ascertained by James W. Terrell and such person as your honorable body may designate to act with him, and they to report the same to the Commissioner of Indian Affairs, together with a schedule containing a synopsis of the titles by which the said lands are held by William H. Thomas and such other information as they may deem advisable.

"Third. That we pay C. A. Colvard the sum of \$1,200, due to said Colvard for lands contracted by him to said Eastern Band, upon which they have erected their school-house and other houses, the said amount (\$1,200) to be credited on said judgment; and if there then be a balance due on said judgment we will pay for the erection of the school house the amount to be credited on the judgment.

"Fourth. And if there should then remain a balance due on said judgment, we propose to secure for said Eastern Band, to the extent of said balance, the lands contracted by said Thomas to Andrew Colvard; and also lands contracted by said Thomas to John A. Hyde, and the lands contracted by said Thomas to Wesley Hol-

land, providing said land can be procured by us from said parties at a price not exceeding the original contract price for the same, and provided that the aggregate amounts therefor do not exceed the balance due on said judgment, the said amount so paid to be also credited on said judgment. The conditions embraced in this fourth proposition to be carried into effect only as we can secure funds from the sales of other of the Thomas lands to make the purchases therein provided for.

"Fifth. Should there then still be a balance due on said judgment, or should said Eastern Band of Cherokee Indians desire to purchase any other of the Thomas lands, at Quallatown or elsewhere, in lieu of those embraced in the fourth proposition, or otherwise, we propose to let them have the same at a fair valuation, to be agreed upon as may be deemed most advisable by the parties."

The proposition was indorsed as follows:

"CHEOAH COUNCIL GROUND,
"Graham County, North Carolina, March, 1876.

"Be it resolved by the special council of the Eastern Band of the Cherokee Indians of North Carolina in special council assembled, and it is hereby resolved by the authority of the same, That we accept and agree to the foregoing proposition, and hereby authorize and request the Secretary of the Interior and Commissioner of Indian Affairs to consummate the same for us and in our behalf as therein provided for.

"Resolved, second, That we hereby appoint Enola, or Black Fox, and James Taylor to act for us, in conjunction with James W. Terrell, to ascertain the number of acres of land to be purchased by us as provided in the second proposition, and to receive title deeds to lands as therein provided."

Acting upon the suggestions embodied in the report of Inspector Vandever and the action taken by the Indians in their indorsement of the proposition of Messrs. Terrell and Johnston, the matter was laid before Congress and an act was passed entitled "An act to authorize the Commissioner of Indian Affairs to receive lands in payment of judgments to Eastern Band of Cherokee Indians," which was approved August 14, 1876 (19 Stats., p. 139), viz:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of Indian Affairs be, and is hereby, authorized and empowered to collect and receive, in payment of the amount due on certain judgments in favor of William Johnston and against William H. Thomas, now held by him in trust for the Eastern Band of Cherokee Indians of North Carolina, the lands mentioned and described in the award of Rufus Barringer, John H. Dillard, and Thomas Ruffin, as a board of arbitrators, under date of October twenty-third, eighteen hundred and seventy-four, upon which such judgments were a lien; such lands to be taken at their cash value, to be determined by an appraisal to be approved by the Secretary of the Interior, and conveyed to the Eastern Band of Cherokee Indians in fee simple: *Provided*, That if the lands above mentioned shall not be sufficient in value to pay off and discharge said judgment, the Commissioner is authorized to receive such other lands as the said Eastern Band of Indians may select, by and with the assent of the said Commissioner, to an amount sufficient to discharge the said judgment."

By a verbal agreement between the parties in interest, Marcus C. King and M. Fain, of Murphey, N. C., were appointed to act as the appraisers of the lands referred to, who, in case of their disagreement, were to appoint a third, the expenses of said appraisal to be paid by the parties to the agreement.

Under date of September 26, 1876, Inspector Watkins was instructed to proceed to North Carolina to consummate the transfers of the lands in accordance with the act above cited, and to take all necessary steps to have Messrs. King and Fain appraise, first, the lands mentioned in the award of Barringer, Dillard, and Ruffin; and if these lands should prove insufficient, to have them then appraise such other lands of the said Thomas, upon which the judgments were liens, as the Indians might select, to an amount sufficient to pay the judgments in full. He was further authorized and instructed that in case either or both of the above-named persons were unable to serve as appraisers, to appoint other discreet men, to be satisfactory to the parties to the agreement, and that prompt action might be had he was further instructed to present the matter before the council to be held at Cheoah on the first Monday in October, and see that proper persons were chosen to represent the Indians in making the selections of land; that upon the completion of the appraisal, formal deeds of conveyance from Thomas and Johnston to the Commissioner of Indian Affairs, in trust for the Eastern Band of Cherokee Indians, of all the lands to be received in satisfaction of the aforesaid judgments, should be secured; the lands to be correctly described in the deeds, and where lands not covered by the award herein mentioned were selected, equal care should be taken to secure clear titles thereto.

On the 16th of October, 1876, Inspector Watkins, under his instructions of September 26, 1876, reported having called a council of the Indians on the 3d of October, which elected a commission—C. H. Taylor and N. J. Smith—to select the lands in question with a view to their transfer, or so much thereof as would be required to

satisfy the judgments. The lands were selected, and were, with those named in the award of Barringer, Dillard, and Ruffin, then appraised by Messrs. King and Dill (Mr. Dill acting in place of Mr. Fain, who failed to appear), as follows:

Lands included in award, 4,450 acres, at \$1.90.....	\$8, 445. 00
Lands selected by commission—	
In Graham County	6, 809 acres.
In Jackson County	700 acres.
In Cherokee County	3, 252½ acres.
	10, 761½ acres.
At \$1.12½	12, 106. 35
	20, 561. 35

which sum was the exact amount of the aforesaid judgments, including interest to the time of the appraisal, October 7, 1876. A deed of conveyance, dated October 9, 1876, was executed by William Johnston and wife, James W. Terrell, and Thomas D. Johnston (known as the Watkins deed), the parties in interest, for the aforesaid lands in favor of the Commissioner of Indian Affairs, in trust for the Eastern Band of Cherokee Indians, to be substituted by another deed, as was agreed between said parties, whenever a more definite description of said lands could be obtained by actual survey.

On the 21st of December, 1876, an estimate for the survey and establishment of the boundaries of the several tracts (some 60 in number), designated in the deed of October 9, 1876, was submitted to the Secretary of the Interior for \$4,000, a sum sufficient, it was thought, to complete all the work required to secure a definite description of the land to be incorporated in the deed to be executed in lieu of the aforesaid deed, with the recommendation that Congress be requested to make the appropriation. With the appropriations made by Congress (19 Stats., pp. 201 and 368), the surveys were made under the direction of the General Land Office, and a deed of conveyance, with definite description of the lands by metes and bounds, was prepared in this office, embracing all the lands known as the Qualla boundary, in favor of the Eastern Band of North Carolina Cherokee Indians, instead of the Commissioner of Indian Affairs, in trust for said Indians, which was duly signed by William Johnston and L. M. Johnston, his wife (known as the "Brooks" deed).

In March, 1880, Mr. John A. Sibbald was appointed special agent to visit North Carolina, under instructions issued March 9, 1880, to perform sundry duties; among them, to obtain a new deed in lieu of the first-named deed of October 9, 1876, which was defective, in that Messrs. Terrell and Johnston did not sign it in their dual capacity as commissioners to sell the lands and as attorneys for William H. Thomas. He was also instructed to ascertain the exact location of each tract surveyed by Mr. Temple, and embraced in the (Watkins) deeds, to notify any one claiming these lands to present their claim of adverse title, so that Messrs. Johnston and Thomas might extinguish the title of those who held valid adverse claim, and to have the Johnston judgments properly assigned on the records of such offices as the United States district attorney should deem necessary.

Recommendation was made in a report to the Secretary of the Interior, May 12, 1880, that authority be given to appoint three commissioners, or as many as might be desirable, to select lands in lieu of those the title to which could not be cleared by Johnston and Terrell; and under instructions of June 22, 1880, the Cherokee council appointed as commissioners N. J. Smith, David Owl, and L. H. Smith, who selected, July 6, 1880, 5 tracts of land in Swain County, containing 4,270 acres; 2 tracts of land in Jackson County, 200 acres = 4,470 acres; and the following selections were also submitted, should the foregoing not suffice to satisfy said judgments; Tracts 6, 9, 10, 11, 13, 41, and 44 in district No. 12, containing 509 acres, and 1 tract embracing the unsold balance of the Thomas 1,000-acre entry, amounting to 300 acres, and on July 28, 1880, David Owl and N. J. Smith, two members of said committee, added one parcel of land in Swain County, in the Cathcart survey, joining the tract of 800 acres heretofore selected, and joining the Qualla boundary, containing 500 acres, or so much thereof as might be necessary to supply the deficit or loss in the Thomas 500-acre entry on the south side of Qualla boundary.

Mr. Sibbald reported that there were 26 tracts embraced in the (Watkins) deed of 1876, which were claimed in whole or in part by whites, three tracts that could not be identified, and one tract, No. 91, in district 9, Graham County, being the fourteenth tract in said deed, was the land of Te-tal-kanah, named in the award, and the last or sixtieth tract in same deed; none of which tracts, however (except tract 91), were a part of the first award, but were lands selected by the Indians (C. H. Taylor, N. J. Smith) to satisfy the Johnston judgments. The title to seven of these tracts could possibly have been extinguished by Johnston and Terrell, but the remaining nineteen tracts were beyond their control. It was thought best to take

other lands from the list selected by Commissioners Smith, Owl, and Smith, rather than to test the title to the lands claimed by the whites. Accordingly a third deed was executed August 14, 1880, by William Johnston, Lucinda M. Johnston, his wife, W. L. Hilliard, guardian of William H. Thomas, and James W. Terrell, and Thomas D. Johnston, commissioners to sell the lands and attorneys for William H. Thomas, in favor of the Commissioner of Indian Affairs, and his successors in office, as trustee for the Eastern Band of Cherokee Indians of North Carolina. This deed has been recorded in Swain, Jackson, Graham, and Cherokee counties.

The following schedule shows the lands embraced in the (Watkins) deed of October 9, 1876, and the (Sibbald) deed of August 14, 1880, with description, location, areas, estimated in the 1876 deed, and as surveyed in the 1880 deed, with a reference to the page of field notes of survey:

Name of Indian, or name of the land.	No. of tract or section.	No. of district.	Area Watkins deed.	Area Sibbald deed.	County.	Page of field-notes of survey.	No. in Watkins deed.	No. in Sibbald deed.
Dick-a-geeskie's heirs	367	9	100	100	Graham	'78-262	48	1
Oo-tal-ka-nah	373	9	100	75	do	'78-259	49	2
Chin-a-gur, or John Owl, "the land whereon he lived in 1855."	98	1	100	85	Cherokee	'78-74	44	3
To-way-allah (part)	12	10	100	99	Graham	'75-13	50	4
Com-silk	588	9	100	90	do	'78-250	51	5
Tracking Wolf	404	9	83	93	do	'78-226	52	6
Richard Henson	14	5	157	103	Cherokee	'78-22	46	7
Richard Henson and others, and their heirs.	11	5	210	439	do	'78-22	45	8
Richard Henson, bounty claim		5	2,700	2,180	do	'78-14	47	9
Sal-ha-nah and others *	63	6	80	91	do	'78-54	53	10
Tes-a-tees-kah		9	100	74	Graham	'78-238	54	11
George Oo-yah-steah	365	9	100	101	do	'78-254	55	12
Cah-nah-a-to-go and others	405	9	100	63	do	'78-270	56	13
Co-he-lookah	93	9	120	133	do	'78-246	57	14
Too-nah-lu-yah or Stump			100	100	do		58	53
Chas-que-ne-tah or Tom-tee-ote-lah.		† 10	100	128	do	'78-234	59	15
Te-tal-ka-nah	91	9	100	234	do	'78-242	60 & 14	16
Total			4,450	1,188				

* Watkins deed has district 9,

† Watkins deed has Graham County.

The foregoing lands are mentioned and described in the award of Barringer, Dillard, and Ruffin.

The following lands were selected by the Indians and taken in satisfaction of the Johnston judgments, either in the deed of 1876 or 1880, or both, as shown in this schedule:

Name of Indian, or name of the land.	No. of tract or section.	No. of district.	Area Watkins deed.	Area Sibbald deed.	County.	Page of field notes of survey.	No. in Watkins deed.	No. in Sibbald deed.
State grant 23.....	17	9	118	128	Graham	'78-154	10	17
State grant 2537.....	37	9	76	67	do.....	'78-218	27	18
State grant 402.....	87	9	180	154	do.....	'78-226	5	19
State grant 3697.....	88	9	100	104	do.....	'78-230	15	20
State grant 3692.....	92	9	120	134	do.....	'78-162	17	21
State grant 398.....	90	9	141	141	do.....	'7.-158	3	22
Same as No. 60 in deed of 1876, State grant No. 3696.....	91	9	229	do.....	do.....	do.....	14	.....
State grant 3689.....	103	9	105	95	do.....	'78-178	21	23
State grant 1747.....	369	9	100	100	do.....	do.....	22	54
State grant 397.....	8	10	400	401	do.....	'78-198	35	24
State grant to T. J. Colvard.....	96	9	228	do.....	do.....	do.....	1	.....
Claimed by Sherrell.....	86	9	138	do.....	do.....	do.....	2	.....
Claimed by Crisp.....	100	9	138	do.....	do.....	do.....	4	.....
Claimed by Sherrell.....	89	9	50	do.....	do.....	do.....	6	.....
Sold to William Farr, February 17, 1862.....	79	9	60	do.....	do.....	do.....	7	.....
Sold to William Davis, August 7, 1861.....	76	9	140	do.....	do.....	do.....	8	.....
Sold to Thomas Rhea, January 15, 1874.....	94	9	204	do.....	do.....	do.....	9	.....
Sold to Thomas Rhea, January 5, 1874.....	95	9	222	do.....	do.....	do.....	11	.....
100 acres sold to G. C. Davis, March 9, 1859.....	77	9	166	do.....	do.....	do.....	12	.....
Sold to L. D. Chambers, June 29, 1863.....	75	9	137	do.....	do.....	do.....	13	.....
Sold to R. C. Washburn, 1869.....	102	9	269	do.....	do.....	do.....	16	.....
Sold to Jesse Y. Birchfield, October 21, 1850.....	81	9	202	do.....	do.....	do.....	18	.....
Sold to A. J. Willocks, July 25, 1851.....	47	9	68	do.....	do.....	do.....	19	.....
Sold to Bird Crago, March 8, 1855.....	29	9	65	do.....	do.....	do.....	20	.....
Sold to J. M. Campbell, November 22, 1875.....	20	9	225	do.....	do.....	do.....	23	.....
Sold to Jeff. Deaver, November 29, 1854.....	18	9	91	do.....	do.....	do.....	24	.....
Owned by R. C. Washburn.....	101	9	151	do.....	do.....	do.....	25	.....
Sold to James C. Colvard, November 17, 1874.....	55	9	50	do.....	do.....	do.....	26	.....
100 acres sold John Ross, November 25, 1854; 100 acres sold John Gibson, April 2, 1863.....	25	9	346	do.....	do.....	do.....	28	.....
Part sold to Thomas Carver, November 30, 1874.....	9	9	269	do.....	do.....	do.....	29	.....
Sold to Jasper and James Rogers, November 10, 1874.....	22	9	400	do.....	do.....	do.....	30	.....
Sold to J. H. Harwood, December 16, 1861.....	13	9	303	do.....	do.....	do.....	31	.....
100 acres sold to R. Carver, December 17, 1874; part sold to Thomas Carver, November 30, 1874.....	2	9	227	do.....	do.....	do.....	32	.....
Owned by R. C. Washburn, A. Sumner.....	15	9	275	do.....	do.....	do.....	33	.....
Sold to N. F. Cooper, February 20, 1854.....	3	9	254	do.....	do.....	do.....	34	.....
Sold to Langley Farley.....	1	10	262	do.....	do.....	do.....	36	.....
These three tracts could not be identified.	584	10	100	do.....	do.....	do.....	37	.....
	482	10	100	do.....	do.....	do.....	38	.....
	369	10	100	do.....	do.....	do.....	39	.....
Total in Graham County.....	.....	.....	6, 809	1, 324	.....	.....	.....	.....
The strip of land joining Qualla boundary on the south.....	.....	.....	700	401½	Jackson	'78-274	40	52
One tract embracing the Amanda Garther Cove.....	.....	.....	.....	128	do.....	do.....	.....	59
One tract known as the Thomas Mill tract.....	.....	.....	.....	43	do.....	do.....	.....	60
Total in Jackson County.....	.....	.....	700	572½	.....	.....	.....	.....

Name of Indian, or name of the land.	No. of tract or section.	No. of district.	Area Watkins deed.	Area Sibbald deed.	County.	Page of field notes of survey.	No. in Watkins deed.	No. in Sibbald deed.
Murphy township.....	7	1	.....	195	Cherokee.....	78-138	.....	25
Do.....	56	1	.....	314	do.....	78-106	.....	26
Do.....	57	1	.....	233	do.....	78-114	.....	27
Do.....	58	1	.....	283	do.....	78-110	.....	28
Do.....	59	1	.....	92	do.....	78-118	.....	29
Do.....	60	1	.....	96	do.....	78-126	.....	30
Valley Town township.....	96	1	.....	67	do.....	78-82	.....	31
Do.....	61	1	.....	281	do.....	78-122	.....	32
Do.....	97	1	.....	78	do.....	78-78	.....	33
Do.....	99	1	.....	115	do.....	78-86	.....	34
Do.....	100	1	.....	160	do.....	78-90	.....	35
Murphy township.....	15	6	.....	59	do.....	78-134	.....	36
Do.....	*16	6	.....	75	do.....	78-130	.....	37
Do.....	32	6	.....	247	do.....	78-102	.....	38
Do.....	34	6	.....	217	do.....	78-98	.....	39
Do.....	35	6	.....	205	do.....	78-94	.....	40
Do.....	48	6	.....	86	do.....	78-58	.....	41
Valley Town township.....	53	6	.....	124	do.....	78-46	.....	42
Do.....	57	6	.....	60	do.....	78-50	.....	43
Do.....	59	6	.....	60	do.....	78-62	.....	44
Do.....	64	6	.....	86	do.....	78-70	.....	45
Do.....	65	6	.....	80	do.....	78-66	.....	46
Do.....	93	6	.....	108	do.....	78-42	.....	47
Do.....	95	6	.....	331	do.....	78-38	.....	48
Do.....	105	6	.....	73	do.....	78-34	.....	49
Do.....	115	6	.....	62	do.....	78-26	.....	50
Do.....	116	6	.....	56	do.....	78-30	.....	51
Tract adjoining lands of Mercer Fain, †	16	6	100	75	do.....	78-30	42	55
"Eli Ingram" tract, claimed by R. C. Washburn.	74	7	100	.....	do.....	.....	41	.....
Land lying on Valley River and Vengeance Creek; occupied by Johnson Graybeard, Nancy and Rose Hawkins.	.....	.....	3,052	.....	do.....	.....	43	.....
Total in Cherokee County...	.....	.....	3,252	3,018	.....	.....	.....	.....
One tract on south side of Tennessee River, at Culbertson Ford.	.....	.....	.....	640	Swain.....	.....	.....	56
One tract on east side of Newton's Mill Creek.	.....	.....	.....	50	do.....	.....	.....	57
One parcel of land in Cathcart survey (Brown entry) outside Qualla boundary.	.....	.....	.....	1,230	do.....	.....	.....	58
No. 3200 acre tract (entry).....	560	.....	.....	2,780	do.....	.....	.....	61
State grant No. 3703.....	6	12	.....	73	do.....	.....	.....	62
State grant No. 3403.....	9	12	.....	130	do.....	.....	.....	63
State grant No. 3700.....	10	12	.....	51	do.....	.....	.....	64
State grant No. 3407.....	11	12	.....	66	do.....	.....	.....	65
State grant No. 3404.....	13	12	.....	58	do.....	.....	.....	66
State grant No. 3406.....	41	12	.....	65	do.....	.....	.....	67
State grant No. 3408.....	44	12	.....	66	do.....	.....	.....	68
.....	.....	.....	.....	5,209	.....	.....	.....	.....

* This tract same as No. 55, Sibbald deed.

† This tract in duplicate. See No. 37, Sibbald deed.

SUMMARY.

	Watkins deed.	Sibbald deed.
Lands under award.....	4,450	4,188
Lands, in lieu of judgments, selected by Indians, in Graham County.....	6,809	1,324
Lands in Jackson County.....	700	572½
Lands in Cherokee County.....	3,252	* 3,918
Lands in Swain County.....	.....	5,209
Total area.....	15,211	15,211½

* Less 75 acres duplicate in No. 37 and No. 55, Sibbald deed.

Respecting the lands taken under the award, Messrs. Barringer, Dillard, and Ruffin state that these parties had "contracts in writing for the purchase of lands, and are entitled to specific performance thereof whenever they shall make full payments of the purchase money," and they awarded "that they have, respectively, an equity to have title, and that the same be made to them by the said Thomas and Johnston upon the payment of the purchase money still due from them; and the said Thomas or Johnston, as the case may be, shall have a right, in default of such payment of the purchase money, to enforce the same by sale of their lands, respectively, according to law."

I am of the opinion that instead of the whole of these tracts being taken in payment of said judgments, only so much of each tract should have been taken as would have represented the balance due from each individual purchaser named in said award. The notes, etc., given by these individual Indians, showing balance due on their "contracts," are held by James W. Terrell, agent for the estate of William H. Thomas, upon whom demand was made therefor by Mr. Sibbald; which demand he promised to comply with when the proper entry of satisfaction, etc., had been authorized to be made upon the record of said judgments.

From these notes and accounts only can the amount paid by these Indians be discovered. As this case now stands, Messrs. Thomas or Johnston have evidently been paid twice for a portion of these lands; and if not too late, other lands should be secured to the Indians as a tribe, and these individual Indians should in equity and justice be secured in the title at least of so much of the land as they can show that they have paid for.

The judgments referred to were transferred or assigned to the Commissioner of Indian Affairs upon the record of the judgments in the Buncombe County superior court by William Johnston July 27, 1875, and Mr. Sibbald under date of May 18, 1880, stated that the U. S. district attorney advised him that it was not necessary to have the assignments registered in the counties where the Thomas lands are situated.

The judgment of R. B. Johnston, in the second award in the matter in controversy between Thomas and Johnston, in the circuit court of the United States for the western district of North Carolina, was awarded to be due William Johnston, and he assigned it with the others to the Commissioner of Indian Affairs. Mr. R. B. Johnston made a similar assignment on the 17th of May, 1880, upon the record of the judgment in the Buncombe County superior court.

In the suit instituted in the circuit court of the United States for the western district of North Carolina, the Eastern Band of Cherokees entered into contracts May 15, 1874, with W. W. Rollins to prosecute their claims, etc., for the recovery of moneys, lands, etc., due them, for 20 per cent of such sum as might be recovered. On the 5th of August, 1874, Mr. Rollins assigned one-half of his interest in said contracts to Otis F. Presbury; both assignment and contracts were approved by the Department August 25, 1874; under these contracts Messrs. Rollins and Presbury were paid \$5,200 on the 23d of September, 1875.

Mr. W. W. Rollins thereafter instituted a suit in the superior court of Madison County, N. C., against these Indians for the recovery of \$50,000 alleged to be due him for services rendered said band, under contracts of May 15, 1874. On the 7th of December, 1876, Secretary Chandler, replying to a notice from Loyd R. Welch that he had employed Messrs. A. T. and T. F. Davidson to defend said suit, subject to the approval of the Department, stated that while he had "no objection to the employment of the attorneys, it must be distinctly understood that the Department can not become responsible for the payment of their fees, as there are no funds which can be used for that purpose. The attorneys employed must look to the parties employing them for payment."

Under date of February 17, 1877, Messrs. Davidson were authorized, in addition to the authority heretofore granted, to appear in said case as attorneys for the defendants, upon condition that their fees for such service should be contingent upon future Congressional action authorizing their payment. On the 14th of April, 1877, Messrs. Davidson were advised of the appointment of Hon. Halbert E. Paine, of Washington, as an attorney to assist them in the defense of the aforesaid suit instituted by Messrs. Rollins and Presbury. For the services rendered Mr. Paine was paid May 17, 1877, \$419.25. Under authority of act of March 3, 1875 (18 Stats., p. 291), Messrs. Davidson were paid February 23, 1878, \$250, May 24, 1879, \$250, and January 11, 1881, \$500, authorized under the same act.

On the 3d of July, 1875, W. C. McCarthy, special U. S. Indian agent, was authorized to expend from funds in his hands the necessary sum in payment of expenses incurred in searching records or any other personal labor performed by Marcus Erwin, provided Mr. Erwin was of the opinion that such search was necessary to ascertain whether the Johnston judgments were a lien on Cherokee lands in North Carolina and the interests of the Indians required its purchase. Mr. Erwin reported that from the investigations then made he was satisfied of the justness of the claim of the Indians, and under the authority herein cited submitted a claim for \$300,

which was disapproved by Secretary Chandler December 22, 1875, for the reason that the Cherokee funds were not applicable to the payment of such a claim, whereupon Mr. Erwin served notice of a suit against Agent McCarthy for the payment of his fee of \$300 for professional services rendered "as attorney in examining the papers in the purchase of a judgment on William H. Thomas in behalf of the North Carolina Cherokees." This sum was finally paid Mr. Erwin April 3, 1877, as provided by act of 1877 (1 Stats., 291).

There are several claims against these Indians now pending before the Department for services rendered in the defense of the Indians in the case of Polly Tatham, administratrix of Thomas C. Tatham v. The North Carolina Cherokees. This claim, now a judgment, grew out of an old claim for services alleged to have been rendered in 1842 by Mr. Tatham, in surveying preemption rights of Eastern Cherokees in North Carolina under the Cherokee treaty of December 29, 1835. The administratrix proceeding to enforce payment of said judgment by sale of a portion of the lands of the Indians, this office requested Judge James L. Henry, of Asheville, North Carolina, to interpose in behalf of these Indians, and to endeavor to stop the threatened sale, for which service Congress would be asked to make the necessary appropriation therefor, inasmuch as there were no funds belonging to the Indians applicable for that purpose.

A similar request was made of William B. Ferguson, under date of June 13, 1881, to attend to this case in the event of the inability of Judge Henry to appear in their behalf. This office is in receipt of Judge Henry's claim for \$250 for services rendered in this behalf, which will be presented in due time for the consideration of Congress.

Touching the present condition of the Eastern Band of the Cherokee Indians residing in North Carolina, the latest official information in the possession of this office is that of Special Agent John A. Sibbald, who reported under date of August 16, 1880, as follows:

"The principal Indian settlement is in Qualla Reserve, in Swain and Jackson counties. The number living in these two counties in 1870, according to the census of that year, was 711; in Graham County, 293; in Cherokee County, 190; and in Macon County, 39. According to the census returns for the present year, the number of Indians in the Qualla Reserve is 825; in Cherokee County, 83; in Graham County, 189; and in Macon County, 12; total, 1,109; which shows a decrease of 10 per cent in ten years. This number is divided as follows, viz: Males over 15 years, 314; females over 15, 357; and 438 children of both sexes, under the age of 15 years.

"The Indians do not live in towns or villages; they live along the streams and cultivate the valleys and rich coves, the last producing corn, their principal crop, without much labor. Some of the best farming lands in Swain and Jackson counties belong to and are cultivated by Indians. A few of the Indians have valuable farms. In passing through the country, I could not mark any difference between the fields of the Indians and those belonging to the white people; all under fence and in fine condition.

"There are but few white men living inside of the Qualla boundary, but in Graham, Cherokee, and Macon counties the Indians live among the whites, and are fairly treated. Their dwelling houses are the common log-cabins of the mountain country. With a few exceptions, all are very plainly clad. They appear kind-hearted and intelligent, but have made little or no progress of late years in educational matters or in agriculture. Their agricultural implements are generally of the rudest kind. They compare favorably in many respects with the white people around them. I have made careful inquiries as to their moral condition and received a favorable report. Prostitution seems to be almost unknown among them, though it is said that occasionally a man and wife separate without the formalities of the law and seek other partners. They are religious, and have preachers of their own race and a white missionary among them in the reserve; all their council meetings are opened with prayer. They command my sincere respect in many things and at the same time excite my sympathy. They have suffered much from the whites. It would be better for them if they could be induced to join their brethren in the Indian Territory, but their wonderful attachments for their native mountains in this State will keep them here. The majority of the band cling to their native language, and many are able to read and write the Cherokee. Many understand more of the English language than they will admit. Some of the Indians have intermarried with the white people of the country, and a number read and write the English language very well. All appear anxious to educate their children, but prefer to have schools established at home so all the children may attend instead of sending a few away. I have recommended that schools be established among them, but in my opinion better results will be reached by sending a number of children away from home to schools each year, to be prepared for teachers, etc. The habits formed at such schools will be of very great advantage to them as well as to other members of the band. They have made no material progress in the pursuits which would tend to improve their condition, but much can not be expected of them

when we consider many of their surroundings and few opportunities for improvement." * * *

Judge J. L. Henry, in a communication to this office, dated Charleston, Swain County, N. C., June 29, 1881, reported:

"1. This is the locality of the greatest number of Indians, the residence of their chief, townhouse, etc. It is gratifying to note, from inquiry among the whites who live near and among them, that they are working better than ever before this season with better prospects of crops, and less crime and intemperance, and that they seem to be encouraged to strive for improvement in social and economic things."

N. J. Smith, principal chief of the Eastern Band of Cherokees, under date of June 20, 1881, reported as follows respecting the last subject of the resolution, namely, white settlers and the steps necessary to be taken to protect the Indians in their rights:

"I regard it as a duty to inform you of the condition of affairs in the tribe. Since the conveyance of the Thomas lands to the Commissioner of Indian Affairs in trust for this tribe, numerous trespasses have taken place, and are constantly occurring and increasing.

"A class of unscrupulous whites, who seem to regard the Indian lands as common property, make entries, take out grants, and frighten the Indians living on the particular locality until they get into possession, thus instituting confusion and incurring heavy costs, which the Indians are unable to pay. This course is pursued because, in fact, we have no legal adviser nor lawyer to assist and maintain our rights before the courts, and thus deter these unscrupulous men from their trespasses and depredations. * * *

"We can not longer do without the regular employment of counsel, these depredations are so constantly on the increase. * * *

"I herewith give you the names of the trespassers who have taken out grants (or other fraudulent or pretended conveyance) and have entered on the lands held under the Thomas deed and taken possession, viz: W. P. Hyde has made several entries (ten or twelve or more), Bartlett Dills, I. M. Hensley, M. C. Hensley, T. W. Keener, Mrs. — Keener, Albert S. Keener, H. P. Childers, Armina Willson, Nimrod Childers, W. R. Grant, David Johnson, Washington Gibson, Landon Tomkins, Thomas Mills, Christenberry Howell, all of Swain County; also, C. C. Martin and W. C. Martin, of Jackson County. There are others who have made entries but not taken possession, and we still hold them off. These embrace the trespassers in these two counties. * * * I hear there are probably others in the extreme ends of the survey. There are others also in Graham and Cherokee counties. * * *

"We desire, and I am instructed to ask, that you take immediate steps to employ competent counsel to aid us in recovering the possession where we have been already dispossessed and to aid us in future controversies of this character."

Under date of July 22, 1881, Chief Smith reported the following additional trespassers in Swain County, viz: I. B. Keener, A. Keener, John M. Enloe, J. R. Kinsey, N. R. Kinsey, T. C. Childers, William H. Thomas, jr., Jackson Williams, William Cline, N. O. Rabb, Gus Bradley, and Dewit Ghomley.

I am informed that the State, since the award and decree, has issued grants or patents for lands within the Qualla boundary which were entered by Thomas and others many years ago; that under the land laws of North Carolina "any citizen can obtain a State grant or patent for any land in the State regardless of the fact that the State may have parted with its title to the same to another party." Under this law any one, by paying 12½ cents per acre for it, can obtain a grant or patent from the State for any tract of land, though it may have been sold and patented fifty years before, but the title to the tract must be determined in the courts, and the only course left the Indians, in respect to these intrusions upon their lands by white settlers, is to bring suits against them in the courts, which must be done within seven years from the date of their grant or entry upon the land.

In view of the condition of these Indians and their property, it is respectfully suggested whether it would not be advisable for Congress to pass an act placing the person and property of these people under the jurisdiction of the United States district court for the western district of North Carolina.

As a precedent, attention is invited to the eleventh section of the act of July 15, 1870 (16 Stats., p. 362).

To institute suits, however, involves the outlay of money, and these Indians, though they have funds, can not avail themselves of them to protect and defend their interests, because Congress has so legislated that their moneys now can be used only for the purchase of agricultural implements and for educational purposes. See act of August 15, 1876 (19 Stats., p. 197). The attention of Congress is invited to this as well as to the need of some one duly authorized to supervise, protect, and defend their interests, so that intruders (present or future) may be removed and not permitted to return or allow others to take their place.

I have the honor to submit herewith the following papers:

(1) A statement, "United States in account with Eastern Band of Cherokees," showing the several amounts held in trust (they have no bonds) for the North Carolina Cherokees, and the disbursement of the same, showing a balance due said Indians March 6, 1882, of \$39,015.41.

(2) An itemized statement showing the disbursements made by W. C. McCarthy, special agent, the purpose for which the same was expended, and the authority of law for the payment of each item.

(3) Copy of contract of Wallace W. Rollins with the chief of the Eastern Band of Cherokees, dated May 15, 1874.

(4) Copy of contract of Wallace W. Rollins with the principal chief and headmen of the Eastern Band of the Cherokees remaining in North Carolina, dated May 15, 1874.

(5) Copy of the award of Barringer, Dillard, and Ruffin, dated October 23, 1874.

(6) Copy of the deed of October 9, 1876, known as the "Watkins" deed, conveying to the Commissioner of Indian Affairs in trust for these Indians 15,211 acres of land taken in lieu of judgments.

(7) Copy of the deed of October 9, 1876, known as "Brooks" deed, conveying Qualla boundary to the Eastern Band of Cherokee Indians in North Carolina.

(8) Copy of the deed of August 14, 1880, known as "Sibbald" deed, conveying 15,211 acres of land to the Commissioner of Indian Affairs and his successors in office as trustee for the Eastern Band of Cherokee Indians of North Carolina.

(9) Copy of the plat of survey of the Qualla boundary.

(10) Copy of the plat of survey of lands in Cherokee County, North Carolina, surveyed by M. S. Temple.

(11) Copy of the plat of survey of lands in Graham County, North Carolina.

Very respectfully, your obedient servant,

H. PRICE,
Commissioner.

THE SECRETARY OF THE INTERIOR.

United States in account with Eastern Band of Cherokees—Continued.

PAYMENT TO NORTH CAROLINA CHEROKEES—Continued.

1881. June 30			1881. Apr. 16 23 23 29 May 3 June 14 14 30	By J. D. Garner, superintendent schools, services.... By A. J. McAlpine, board, &c., Indian youth..... By John W. Bird, services, teacher..... By Rev. Braxton Craven, schools..... By James Atkins, Jr., schools, board, &c..... By William P. Hastings, schools, board, &c..... By B. S. Coppeck, schools, board, &c..... By balance	\$182 21 433 33 113 00 450 00 403 75 44 00 112 20 40, 451 29 <u>46, 290 54</u>	Act Aug. 15, 1876. Do. Do. Do. Do. Do. Do. Do.
1881. July 1	To balance.....	40, 451 29	1881. July 19 29 Aug. 1 5 19 23 Sept. 3 Dec. 7 1882. Jan. 21	By Rev. Braxton Craven, schools..... By James Atkins, schools..... By James Blythe, services, schools..... By A. J. McAlpine, services, schools..... By John W. Bird, services, schools..... By A. J. McAlpine, services, schools..... By James Blythe, services, schools..... By Rev. Braxton Craven, services, schools..... By Rev. Braxton Craven, services, schools..... By balance.....	450 00 450 00 37 50 424 51 140 00 86 63 30 00 300 00 233 65 38, 299 00 <u>40, 451 29</u>	Act Aug. 15, 1876. Do. Do. Do. Do. Do. Do. Do. Do.
1882. Mar. 6	To balance..... To W. C. McCarthy, special agent, refunded	38, 299 00 716 41				

A.

[Inclosure 2.]

Disbursements made by W. C. McCarthy, special Indian agent.

PAYMENT TO NORTH CAROLINA CHEROKEES BY W. C. MCCARTHY, SPECIAL AGENT.

1875.	1875.				
May 11	May 7	\$4,000.00	To Treasury draft No. 4673, on Interior warrant No. 713, to credit of W. C. McCarthy, with assistant treasurer, New York.	By W. C. McCarthy, stationery, &c.	\$9.40
June 4	May 17	12,000.00	To Treasury draft No. 4768, on Interior warrant No. 786, to credit of W. C. McCarthy, with assistant treasurer, New York.	By Robert Beall, copying press, &c.	8.95
22	May 17			By J. Bradley Adams, stationery.	25.15
	May 26			By Tennot Bros., horses, harness, and wagon.	1.00
	May 26			By N. T. Summey, saddle, &c.	425.00
	May 26			By N. P. Penland, saddle-bags, &c.	9.00
	May 29			By A. S. Barnes & Co., school-books, &c.	9.25
	May 29			By Walsh, Coulter & Flagler, hoes, &c.	201.25
	June 3	18,408.20	To Treasury draft No. 5002, on Interior warrant No. 990, to credit of W. C. McCarthy, with assistant treasurer, New York.	By T. E. Sherrill, farm stock and tools.	130.50
	June 4			By Jackson Blythe, farm stock and tools.	15.00
	June 4			By R. B. Smith, farm stock and tools.	80.00
	June 7			By P. M. Knight, farm stock and tools.	15.00
	June 7			By Coe-lah with Blythe, farm stock and tools.	35.00
	June 7			By Alexander Hornbuckle, farm stock and tools.	25.00
	June 8			By J. A. Collins, farm stock and tools.	6.75
	June 8			By Enloe & Street, farm stock and tools.	5.00
	June 8			By Leatherwood & Hall, farm stock and tools.	1.80
	June 8			By W. C. McCarthy, incidental expenses.	1.55
	June 9			By Alexander Hornbuckle, interpreting.	3.00
	June 10			By Ben Brown, farm stock and tools.	27.50
	June 11			By Ute Sherrill, farm stock and tools.	100.00
	June 11			By Leander Hornbuckle, farm stock and tools.	25.00
	June 12			By Marion Green, farm stock and tools.	80.00
	June 12			By Andy Standing Deer, farm stock and tools.	80.00
	June 14			By Wesley Hornbuckle, farm stock and tools.	80.00
	June 15			By Ute Sherrill, farm stock and tools.	90.00
	June 15			By Joseph B. Sherrill, farm stock and tools.	75.00
	June 18			By Da-wih, farm stock and tools.	15.00
	June 18			By Abel Hyatt, farm stock and tools.	61.00
	June 18			By J. H. Frizzle, freight and hauling.	22.84
	June 19			By Ute Sherrill, farm stock and tools.	63.50
	June 21			By John M. Enloe, farm stock and tools.	38.00
	June 21			By D. F. Gibson, farm stock and tools.	18.00
	June 22			By Hyatt & Hill, farm stock and tools.	198.00
	June 22			By J. Bedford Sherrill, farm stock and tools.	175.00
	June 22			By A. H. Hayes, hauling.	5.00
	June 26			By J. L. Smathers, repairing wagon.	5.00
	June 26			By W. C. McCarthy, traveling expenses.	110.90
	June 28			By Clemens, express charges.	5.65
	June 30			By Alex. Hornbuckle, interpreting.	3.00
	June 30			By Seroop Enloe, horse-keeping.	26.00

19	By J. H. Addington, traveling expenses	1.50
19	By W. C. McCarthy, traveling expenses	1.00
19	By W. C. McCarthy, incidental expenses	.20
20	By W. C. McCarthy, traveling expenses	28.25
20	By W. P. Walker, farming stock, &c.	19.00
21	By W. C. McCarthy, traveling expenses	2.50
23	By J. W. King, provisions	27.50
23	By J. W. King, farming stock, &c.	17.00
23	By J. R. Davis, farming stock, &c.	70.00
26	By L. E. Mauny & Bro., provisions	31.56
27	By William Johnston, for three judgments in his favor against William H. Thomas, assigned to Commissioner Indian Affairs, in trust for the Eastern Band of Cherokees, principal and interest	19,245.53
28	By W. P. Walker, farming stock, &c.	220.00
28	By Woodbury & Dusen, traveling expenses	24.00
28	By W. C. McCarthy, traveling expenses	9.75
29	By W. C. McCarthy, traveling expenses	1.10
30	By W. C. McCarthy, traveling expenses	4.00
31	By W. P. Walker, supplies for sick, aged, &c.	31.93
31	By C. A. Colvard, incidental expenses	1.00
31	By C. A. Colvard, provisions and hauling	42.55
31	By C. A. Colvard, farming stock, &c.	110.00
31	By Peyton Colvard, farming stock, &c.	17.00
31	By S. Enloe, farming stock, &c.	1.50
Aug.	By W. P. Walker, supplies for sick, aged, &c.	103.37
21	By W. P. Walker, provisions	56.86
28	By W. C. McCarthy, traveling expenses	28.75
31	By W. C. McCarthy, traveling expenses	5.25
1	By W. C. McCarthy, traveling expenses	1.50
2	By David Taylor, farming stock, &c.	75.00
2	By Fincannon & Addington, incidental expenses	51.60
2	By T. S. Land, incidental expenses	7.00
2	By J. W. Thompson, incidental expenses	14.85
2	By D. Bieman, incidental expenses	6.10
2	By W. C. McCarthy, incidental expenses	1.00
3	By W. C. McCarthy, traveling expenses	3.00
5	By W. C. McCarthy, traveling expenses	5.50
7	By W. P. Walker, provisions	63.00
9	By W. C. McCarthy, incidental expenses	.35
10	By Ute Sherrill, farming stock, &c.	2.00
13	By W. P. Walker, provisions	18.56
14	By T. Reagan, farming stock, &c.	440.83
16	By Enloe & Street, provisions	17.00
16	By W. C. McCarthy, traveling expenses	15.04
17	By L. E. Mauny & Bro., farming stock, &c.	2.00
17	By L. E. Mauny & Bro., provisions	2.75
22	By Joe Lowen, provisions	87.63
30	By S. Enloe, incidental expenses	18.49
30	By S. Enloe, farming stock, &c.	25.00
30	By S. Enloe, provisions	22.75
30	By S. Enloe, provisions	21.00
Sept.		

Disbursements made by W. C. McCarthy, special Indian agent—Continued.

PAYMENT TO NORTH CAROLINA CHEROKEES BY W. C. MCCARTHY, SPECIAL AGENT—Continued.

1875.			
Sept.	30	By Silas Jenkins, teacher's salary	\$73. 00
	1	By W. C. Carthy, agent's salary	375. 00
Oct.	2	By Enloe & Street, seed wheat and hauling	120. 00
	5	By J. H. Bryson, provisions	31. 99
	6	By David Taylor, provisions	13. 00
	6	By C. A. Colvard, corn	20. 00
	6	By W. P. Walker, provisions	32. 50
	7	By Eli Ingram, provisions	10. 92
	8	By J. P. Colvard, provisions, farming stock, tools, &c	100. 66
	10	By W. C. Morgan, incidental expenses	50
	10	By R. B. Smith, interpreter	5. 00
	16	By A. L. Cooper, incidental expenses	2. 00
	16	By A. L. Cooper, provisions	53. 51
	16	By A. L. Cooper, provisions	4. 20
	16	By W. P. Walker, provisions	28. 00
	16	By C. A. Colvard, provisions	8. 00
	16	By C. A. Colvard, farming stock, tools, &c	7. 00
	16	By L. E. Manney & Bro., provisions	282. 83
	17	By L. E. Manney & Bro., incidental expenses	5. 85
	17	By W. C. McCarthy, traveling expenses	5. 80
	21	By C. A. Colvard, traveling expenses	14. 00
	21	By D. T. Sudduth, seed wheat &c	58. 35
	21	By James Reddick, seed wheat, &c	65. 80
	25	By N. J. A. Strange, seed wheat, &c	25. 00
	25	By W. B. Allen, incidental expenses	1. 00
	29	By W. P. Walker, seed wheat, &c	76. 75
	29	By W. P. Walker, iron	25. 92
	29	By H. J. Beck, seed wheat, &c	16. 50
	29	By J. W. Thompson, incidental expenses	16. 70
	30	By E. Everett, seed wheat	5. 25
	30	By S. H. Miller, seed wheat	28. 75
	30	By J. C. Sherrill, distributing wheat	5. 00
	30	By L. L. Sherrill, seed wheat	6. 25
	30	By W. M. Enloe, seed wheat	46. 50
	4	By R. B. Smith, interpreter	4. 00
	4	By J. M. Welch, farming stock, &c	77. 50
	5	By D. T. Ransom, seed wheat	43. 20
	6	By Hyatt & Hill, farming tools	8. 00
	6	By J. A. Hadden, seed wheat	46. 00
	9	By J. D. Buchanan, Indian taxes	50. 00
	10	By Sevier, Ah-ma-cha-nah, clerk of council	30. 00
	15	By W. C. McCarthy, traveling expenses	6. 00
	17	By A. T. Summey, farming tools	3. 75
	18	By Bearden Rankin & Co., incidental expenses	5. 00

19	By D. T. Sumner, traveling expenses.....	7.50
22	By Jackson Blythe, farming stock.....	20.00
23	By J. G. Tabum, clerk of council.....	98.00
27	By Coo-lah-with Blythe, guard of council.....	36.00
29	By Eli Ingram, incidental expenses.....	10.00
29	By Eli Ingram, guard of council.....	36.00
30	By C. H. Taylor, ex-secretary of council.....	36.00
30	By Will West, guard of council.....	13.50
30	By John Greybeard, guard of council.....	36.00
31	By H. J. Beck, provisions.....	3.75
3	By Wilson Co cum mah, farming stock.....	18.00
4	By Benzee, Hood & Co., supplies for sick, aged, &c.....	263.78
4	By J. M. Green, incidental expenses.....	21.00
12	By W. C. McCarthy, traveling expenses.....	5.50
15	By Ray & Millard, supplies for sick, aged, &c.....	39.48
16	By D. T. Sumney, traveling expenses.....	5.00
16	By D. T. Sumney, incidental expenses.....	3.25
20	By W. C. McCarthy, traveling expenses.....	3.75
21	By Enloe & Street, farming tools, &c.....	6.40
21	By James Arwood, guard of council.....	9.00
24	By John A. Powell, guard of council.....	36.00
27	By Enloe & Street, supplies for sick, aged, &c.....	8.70
31	By Will West, interpreter.....	10.00
31	By R. B. Smith, interpreter.....	10.00
31	By Hyatt & Hill, farming tools.....	10.00
31	By Hyatt & Hill, provisions.....	49.75
31	By Hyatt & Hill, provisions.....	16.57
31	By Hyatt & Hill, provisions.....	23.09
31	By Hyatt & Hill, provisions.....	33.53
31	By Hyatt & Hill, provisions.....	67.67
31	By Elias Jenkins, teacher's salary.....	71.00
31	By W. C. McCarthy, agent's salary.....	375.00
1876.		
Jan. 5	By J. Bradley Adams, incidental expenses.....	6.75
6	By Jim Te wa ba, guard of council.....	36.00
10	By W. C. McCarthy, incidental expenses.....	1.00
12	By David Tucker, expenses of census.....	36.00
13	By Hamilton Erwin, expenses of census.....	235.28
13	By Ross E. Smith, expenses of census.....	82.47
13	By C. C. Martin, incidental expenses.....	17.34
18	By Enloe & Street, farming stock and tools.....	2.65
20	By Mrs. A. B. Hyatt, sick, aged, and infirm.....	14.45
27	By Samuel Couley, sick, aged, and infirm.....	16.00
29	By J. Jenkins, traveling expenses.....	1.25
29	By W. C. McCarthy, traveling expenses.....	1.00
30	By W. C. Allman, traveling expenses.....	1.00
30	By W. C. McCarthy, traveling expenses.....	.50
31	By T. J. Taylor, boarding expenses.....	16.54
31	By Ah qua tay gih, boarding expenses.....	6.00
31	By A. J. Taylor, boarding expenses.....	16.50
31	By Martin McElreath, traveling expenses.....	5.64
31	By Jim Te wa ba, boarding expenses.....	2.50
31	By W. M. Hardin, boarding expenses.....	5.12

Disbursements made by *W. C. McCarthy, special Indian agent*—Continued.

PAYMENT TO NORTH CAROLINA CHEROKEES BY W. C. MCCARTHY, SPECIAL AGENT—Continued.

1876.			
Jan.	31	By A. L. Sneed, boarding expenses.....	\$24.20
	31	By C. A. Colvard, boarding expenses.....	8.00
	31	By John M. Colvard, boarding expenses.....	8.00
Feb.	7	By Mink and others, incidental expenses.....	25.00
	7	By Lewis Smith, interpreter.....	8.00
	10	By C. A. Colvard, traveling expenses.....	10.00
	10	By Mrs. Janet, traveling expenses.....	1.00
	11	By C. A. Colvard, incidental expenses.....	3.50
	11	By Soniate Owl, repairs in schoolhouse.....	30.60
	11	By W. P. Walker, for sick, aged, and infirm.....	38.65
	11	By W. C. Allman, traveling expenses.....	1.00
	11	By W. C. McCarthy, traveling expenses.....	.50
	15	By S. W. Davidson, clerk of council.....	27.00
	21	By G. E. M. Liston, expenses of census.....	12.00
	21	By G. E. M. Liston, clerk of council.....	280.70
	21	By T. K. Welch, for sick, aged, and infirm.....	14.50
	24	By N. J. Smith, expenses of census.....	6.00
	24	By Tom Skiffy, boarding expenses.....	20.13
	24	By L. E. Manney & Bro., sick, aged, and infirm.....	8.75
	24	By John Ross, incidental expenses.....	1.50
	24	By L. E. Manney & Bro., incidental expenses.....	3.60
	24	By R. E. Smith, interpreter.....	10.00
Mar.	23	By Enloe & Street, incidental expenses.....	7.78
	30	By David Tucker, interpreter.....	2.00
	31	By Lewis Owl, incidental expenses.....	6.00
	31	By John Woodfin, interpreter.....	25.00
	31	By Hyatt & Hill, sick, aged, and infirm.....	18.55
	31	By Mrs. P. M. Knight, sick, aged, and infirm.....	.60
	31	By Enloe & Street, sick, aged, and infirm.....	23.40
	31	By W. P. Walker, sick, aged, and infirm.....	9.50
	31	By A. L. Cooper, sick, aged, and infirm.....	55.83
	31	By Silas Jenkin, salary as teacher.....	90.00
	31	By John S. Keener, salary as teacher.....	75.00
	31	By Mary A. Manney, salary as teacher.....	89.00
	31	By James A. Branton, salary as teacher.....	82.00
	31	By Joseph B. Keener, salary as teacher.....	68.00
	31	By Thomas Montith, repair of schoolhouse.....	10.00
	31	By W. C. McCarthy, salary as agent.....	375.00
	31	By W. P. Walker, provisions.....	192.92
	31	By A. L. Cooper, provisions.....	60.54
	31	By Cooper & Aiken, sick, aged, and infirm.....	75.81
	31	By A. L. Cooper, furnishing stock and tools.....	13.46
May	29	By Eli Ingram, boarding expenses.....	25.00
May	2	By A. S. Barnes & Co., schoolbooks.....	140.50
		To Treasury draft No. 6771.....	3,140.00
1876.	May 1		

16	June	By T. K. Welch, m. d., sick, aged, and infirm	86.00
2		By Ben Brown, boarding expenses	32.00
5		By Sonitah, boarding expenses	22.25
6		By J. B. Keener, teacher's salary	60.00
6		By I. E. Manney, cash, boarding expenses	151.75
7		By W. P. Walker, provisions, sick, aged, &c	157.13
7		By W. T. Cooper, boarding expenses	12.99
7		By John Woodfin, interpreter	101.00
7		By James A. Branton, teacher's salary	21.50
7		By C. A. Colvard, boarding expenses	60.00
7		By W. T. Cooper, boarding expenses	70.00
7		By Ah gon vel ax, boarding expenses	47.00
7		By Mary A. Manney, teacher's salary	95.50
7		By H. Martin, incidental expenses	62.00
7		By John S. Keener, teacher's salary	3.15
14		By Elias Jenkins, teacher's salary	61.00
15		By Johnson Gray beard, boarding expenses	74.50
30		By Hyatt & Hill, provisions	30.00
30		By W. C. McCarthy, traveling expenses	474.74
30		By D. T. Summey, traveling expenses	63.90
30		By Woodbury & Dusen, traveling expenses	4.50
30		By W. C. McCarthy, incidental expenses	69.25
30		By Scroop & Enloe, incidental expenses	3.00
30		By John A. Powell, incidental expenses	13.00
30		By N. Smith, interpreter	28.00
30		By W. C. McCarthy, agent's salary	10.00
30		By Scroop & Enloe, incidental expenses	375.00
31	July	By Enloe & Street, incidental expenses	107.50
9	Aug.	By S. P. Farmer, school repairs	2.25
14		By Thomas Montith, school repairs	31.50
24		By S. H. Miller, incidental expenses	30.00
25		By W. C. McCarthy, miscellaneous bills	16.00
31		By W. C. McCarthy, salary for July and August	275.03
31		By C. A. Colvard, services as assistant	230.00
31	Sept.	By Joseph B. Keener, salary as teacher	646.46
2		By John Woodfin, salary as interpreter	30.00
2		By James A. Branton, salary as teacher	11.50
2		By John S. Keener, salary as teacher	30.00
9		By Scroop & Enloe, incidental expenses	30.00
12		By Mary A. Manney, salary as teacher	178.38
15		By W. C. McCarthy, salary as sup't schools for September	25.00
30		By balance	125.00
			471.36
			37,548.20
		By deposited to credit United States	891.85
			891.95

1876.

Sept. 30

[Inclosure 3.]

CONTRACT OF WALLACE W. ROLLINS WITH THE CHIEF OF THE EASTERN BAND OF CHEROKEES.

Whereas by a resolution of the council of the Eastern Band of the Cherokees in general council assembled and constituted according to the instructions and regulations of the Interior Department, at a session held at Cheva, in the county of Graham, formerly Cherokee County, in the State of North Carolina, on the first Monday in October, A. D. 1872, it was determined to employ some discreet and trusty person to prosecute the various claims of the tribe against the Government of the United States at Washington City, or elsewhere, arising under different treaties and laws of the United States and the State of North Carolina from the year 1783 down to the present time, and the chief, John Ross, of the county of Graham, formerly Cherokee County, in the State of North Carolina, was at the same time and by the same authority instructed to make a contract with a competent person to carry out the intention and purpose of the said council as above mentioned; and

Whereas since the first Monday in October, A. D. 1872, various suits at law and in equity have been begun by the district attorney of the United States at the request of the said John Ross, chief, in the name and for the benefit of the said Eastern Band of Cherokees, against divers defendants, which suits are depending in the circuit and district courts of the United States, and other suits will have to be brought in said courts and the courts of North Carolina to establish the rights and redress the wrongs of the said Eastern Band of the Cherokees, and the proper conduct and management of all this litigation, pending and proposed, will require the services of an active and efficient agent, and the said chief, John Ross, for and in behalf of the Eastern Band of the Cherokees, and by virtue of his authority as chief of said band, having selected Wallace W. Rollins, attorney at law, of the town of Marshall, in the county of Madison and State of North Carolina, as a person suitable to be instructed with the conduct and management of all their business with the Government of the United States, and such as is or may hereafter be in litigation in any of the above-mentioned courts or in any other court or before any tribunal of arbitration or reference now or hereafter to be constituted:

Now, therefore, it is agreed between the said John Ross, chief of the Eastern Band of the Cherokees, for and in behalf of said Eastern Band and by virtue of his said authority as chief, as aforesaid, and Wallace W. Rollins, of the town of Marshall, in the county of Madison, in the State of North Carolina, as follows: That the following things shall be endeavored to be done by the said Wallace W. Rollins, viz:

1. To assert and establish before any proper officer or authority of the United States, and to collect for the Eastern Band of Cherokees, or those of said band thereunto entitled, all such sums of money as may be due to the said Eastern Band of the Cherokees, or to any individual or individuals thereof, and due to them, or any of them, under the provisions of the twelfth section of the treaty of 1835 and 1836, and of an act of Congress approved July 29, 1848, and of subsequent acts of Congress, to carry into effect the provisions of said treaty and of said act of 1848.

2. To assert and establish before any proper officer or authority of the United States, and to collect for the Eastern Band of the Cherokees, all such sums of money as they may be entitled to from the United States, being their pro rata share of a fund derived from the sale of the lands known as the neutral lands, the Cherokee strip in the State of Kansas, and all the lands west of longitude 96°, as provided for by virtue of the treaty of July 19, 1866.

3. To assert, prosecute, establish, and collect all the demands of the Eastern Band of the Cherokees, or any individual of said band, against the United States on account of their claims known as reservation, preemption, and spoliation claims, arising and due under and by virtue of the treaties of 1835-'36 and 1846, which are now unadjusted.

4. To prosecute, assert, establish, and collect for the Eastern Band of the Cherokees before and from the Congress of the United States, or from any other authority of the United States, whatever the said Eastern Band of the Cherokees may be entitled to from the United States on account of the misappropriation, unauthorized, extravagant, or unnecessary expenditure of any portion of a fund of five millions of dollars (\$5,000,000) designated and set apart, as well for the use of the Eastern Band of the Cherokees as for those of that nation who removed West, by virtue of the first section of the treaty of 1835, which claim is unadjusted.

5. To assert, prosecute, and collect for the Eastern Band of the Cherokees so much of an appropriation as they may be entitled to, authorized by the provisions of the fourth section of an act of Congress entitled "An act making appropriation for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes," &c., approved May 29, 1872.

6. To prosecute and attend to personally, and by such attorney or attorneys as he

may employ (and whom he is hereby authorized to employ), all suits now pending in the courts of the United States in behalf of the Eastern Band of the Cherokees against any person or persons whatsoever, and such other suits as it may be necessary hereafter to institute in any court of the United States, or of the State of North Carolina, or of any other State or Territory, or before any tribunal of arbitration or reference, to establish any right, or redress any wrong or injury done to the said Eastern Band of the Cherokees, or to any individual thereof.

The said Wallace W. Rollins covenants and agrees with the said the Eastern Band of the Cherokees faithfully and diligently to attend to the prosecution and collection of all the different claims hereinbefore set forth and specified; and to the suits at law or in equity now pending, and above mentioned, or to any others which may hereafter arise; and as a compensation for his services in behalf of the said Eastern Band of the Cherokees in the matters and things hereinbefore specified [the said chief, John Ross, for and in behalf of the Eastern Band of the Cherokees, agrees to pay the said Wallace W. Rollins 20 per cent. of such amounts as he may collect for or establish to be due to the said Eastern Band of the Cherokees on account of any one or all of the claims hereinbefore mentioned, and at the same rate out of such amounts of money or property as may be recovered in the said above-mentioned suits at law or in equity now pending, or which may hereafter be instituted]. It is further agreed that upon any compromise of any of the claims of the said Eastern Band of the Cherokees, hereinbefore mentioned, which the said Wallace W. Rollins, or any one employed by him in his behalf as counsel, may bring about or upon any decision or award made by any referees or arbitrators to whom the matter now in dispute between the said Eastern Band of the Cherokees and the said above-mentioned defendants in the said suits now pending in the United States courts, that upon whatever sum or sums of money may thus be agreed upon, or adjudged to be due or owing to the said Eastern Band of the Cherokees; the same rate of compensation as above mentioned shall be paid to the said Wallace W. Rollins; and if the compromise or award shall be of real, or other property, then the compensation shall be at the same rate upon the valuation of the said property.

This contract shall continue for four years from the date of its signature by the said chief, John Ross, and the said Wallace W. Rollins; and the said John Ross, for the said Eastern Band of the Cherokees, hereby revokes all and every authority which may be claimed or set up by any other person or persons, except the said Wallace W. Rollins, upon any pretense whatever to represent the said Eastern Band of Cherokees in the business specified in this contract.

Signed in duplicate at Asheville, N. C., May 15, A. D. 1874.

JOHN ROSS,
Chief of the Eastern Band of Cherokees.
WALLACE W. ROLLINS.

UNITED STATES OF AMERICA,
Western District of North Carolina:

I, Robert P. Dick, judge of the United States district court within and for said district, do certify that, on the 15th day of May, A. D. 1874, personally appeared before me at Asheville, in the county of Buncombe, within said district, John Ross, chief of the Eastern Band of the Cherokees, mentioned in the foregoing contract, of the one part, and Wallace W. Rollins, of the other part, who acknowledge the execution of said contract in my presence.

I further certify that it appears to me, from the statements of the parties before me, that the Eastern Band of Cherokees is the party interested of the one part, and Wallace W. Rollins is the party interested of the other part, in the above-mentioned contract; that the authority claimed by the said chief, John Ross, in my presence and in his own proper person is, that he is the lawful chief and representative of the said Eastern Band of Cherokees, and, by virtue of his authority as such chief, he has the power to make the foregoing contract, and in the exercise of said power has thereunto agreed and executed the same; and, that the said Wallace W. Rollins, in my presence and in his own proper person, claims to agree to and execute the said contract in his own right and for his own benefit.

Witness my hand and seal of the said United States district court, at Asheville, in the county of Buncombe, and State of North Carolina, as aforesaid, the day first above written.

ROBT. P. DICK,
United States District Judge.

UNITED STATES OF AMERICA,
Western District of North Carolina:

I, E. R. Hampton, clerk of the district court of the United States for the western district of North Carolina, at Asheville, in said district, hereby certify that the Hon. Robert P. Dick is judge of the district aforesaid and was so at the time of the signing

of the foregoing instrument; that I am acquainted with his handwriting and know his signature, which appears above to be genuine and true.

In testimony whereof I have hereunto set my hand and affixed the seal of said court at Asheville, in the said district, this the 16th day of May, A. D. 1874, and in the ninety-eighth year of American independence.

[SEAL.]

E. R. HAMPTON,
Clerk, United States District Court, Western District, North Carolina.

MARSHALL, N. C., August 5, 1874.

I hereby disclaim any ——— to demand or right to receive more than 20 per cent for all my services under the within contract and that of the same date between the principal chiefs and headmen of the Eastern Band of Cherokee Indians and myself.

WALLACE W. ROLLINS.

I assign one-half my interest to the within contract to Otis F. Presbrey, attorney at law, Washington, D. C.

Dated August 5, 1874.

WALLACE W. ROLLINS.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
August 24, 1874.

I hereby assent to the foregoing assignment.

H. R. CLUM,
Acting Commissioner.

DEPARTMENT OF THE INTERIOR,
August 25, 1874.

The foregoing assignment is hereby assented to.

W. H. SMITH,
Acting Secretary.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
June 24, 1874.

I hereby approve the sixth section of the within contract authorizing the party of the second part—

“To prosecute and attend to personally and by such attorney or attorneys as he may employ (and whom he is hereby authorized to employ), all suits now pending in the courts of the United States in behalf of the Eastern Band of the Cherokees against any persons whatsoever, and such other suits as it may be necessary hereafter to institute in court of the United States, or of the State of North Carolina, or of any other State or Territory, or before any tribunal of arbitration or reference, to establish any right or redress any wrong or injury done to the said Eastern Band of the Cherokees or to any individual thereof.”

For which service the said party of the second part is to receive 20 per cent. of such amount as may be recovered thereby to the Eastern Band of Cherokee Indians.

H. R. CLUM,
Acting Commissioner.

DEPARTMENT OF THE INTERIOR,
August 25, 1874.

I hereby approve the sixth section of the within contract as recited and approved by the Commissioner of Indian Affairs.

W. H. SMITH,
Acting Secretary.

INCLOSURE 4.

CONTRACT OF WALLACE W. ROLLINS WITH THE PRINCIPAL CHIEFS AND HEADMEN OF THE EASTERN BAND OF CHEROKEES REMAINING IN NORTH CAROLINA.

It is agreed between the principal chiefs and headmen of the Eastern Band of the Cherokees remaining in North Carolina, and Wallace W. Rollins, residing in Marshall, in the county of Madison, in the State of North Carolina, as follows:

Whereas it is to the interest of the undersigned, as well as to every individual of their tribe, that an early and satisfactory settlement of all their claims as a tribe, or as individuals against the United States, the State of North Carolina, their former

agents and their sureties, and the administrators on the estates of any of their people heretofore deceased, and the securities of such administrators should be made; and

Whereas suits are now pending in the United States courts for the western district of North Carolina, and others will probably have to be brought in those courts, or the courts of the State of North Carolina, effectually to enforce the rights, and redress the wrongs of the undersigned and their tribe against certain citizens of North Carolina, and of other States, and it will be necessary that the undersigned chiefs, &c., or some duly accredited agent for us, should from time to time be present at the city of Washington to prosecute our claim before the proper departments of the government there or before Congress, and having selected W. W. Rollins as such agent, the things to be done by the said Wallace W. Rollins, for and in behalf of the said the undersigned chiefs and headmen are as follows:

First. To assert and establish before any proper officer or authority of the United States, and to collect for the undersigned and their tribe, such sums of money as they or any of them may be in any wise entitled to from the United States under the provisions of the twelfth section of the treaty of 1835-'36, and of an act of Congress approved July 29, 1848, and of subsequent acts of Congress to carry into effect the provisions of said treaty and of said act of 1848.

Second. To assert and establish before any proper officer or authority of the United States, and to collect for the undersigned and their tribe all such sums of money as they or any of them may be entitled to from the United States, being their pro rata share of a fund derived from the sale of the lands known as the "neutral lands," the Cherokee strip in the State of Kansas, and all the lands west of longitude 96°, as provided for by virtue of the treaty of July 19, 1866.

Third. To assert, prosecute, establish, and collect all the demands of the undersigned, or any individual of their tribe, against the United States on account of their claims, known as reservation, pre-emption, and spoliation claims, arising and due under and by virtue of the treaties of 1835-'36 and 1846, which are now unadjusted.

Fourth. To prosecute, assert, establish, and collect for the undersigned and the other individuals and their tribe, from the Congress of the United States, or from any other authority of the United States whatever, the said tribe may be entitled to from the United States on account of the misappropriation, unauthorized, extravagant, or unnecessary expenditure of any portion of a fund of \$5,000,000 designated and set apart as well for the use of the Eastern Band of the Cherokees as for those of that nation who removed West by virtue of the first section of the treaty of 1835, which claim is unadjusted.

Fifth. To assert, prosecute, and collect for the undersigned and their tribe so much of an appropriation as they may be entitled to, authorized by the provisions of the fourth section of an act of Congress, entitled "An act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes," &c, approved May 29, 1872.

Sixth. To prosecute and attend to personally, and by such attorney or attorneys as he may employ (and whom he is hereby authorized to employ), all suits now pending in the courts of the United States in behalf of the Eastern Band of the Cherokees against any person or persons whatsoever, and such other suits as it may be necessary hereafter to institute in any court of the United States, or of the State of North Carolina, or of any other State or Territory, to establish any right or redress any wrong or injury done to the undersigned chiefs or headmen, their tribe, or any of their tribe.

The said Wallace W. Rollins covenants and agrees with the said the undersigned principal chiefs and headmen of the Eastern Band of the Cherokees faithfully and diligently to attend to the prosecution and collection of all the different claims hereinbefore set forth and specified, and to the suits at law or in equity now pending and above mentioned, and to any others which may hereafter arise [and as a compensation for his services in behalf of the undersigned principal chiefs and headmen, as aforesaid, and in behalf of the tribe of the Eastern Band of the Cherokees, whom they represent, the undersigned agree to pay the said Wallace W. Rollins not to exceed 20 per cent., to be allowed by the Commissioner of Indian Affairs, out of such amounts as he may collect for, or establish to be due to, the Eastern Band of Cherokees, on account of any one or all of the claims hereinbefore mentioned, and at the same rate out of the amounts of money or property as may be recovered in the said above mentioned suits at law, or in equity, now pending or which may be hereafter instituted]. It is further agreed, that upon any compromise of any of the claims of the said Eastern Band of the Cherokees hereinbefore mentioned, which the said Wallace W. Rollins, or any one employed by him in this behalf as council, may bring about, or upon any decision or award made by any referees or arbitrators to whom the matters now in dispute between the said Eastern Band of Cherokees and the said above-mentioned defendants in the said suits now pending in the United States courts, that upon whatever sum or sums may thus be agreed upon, or adjudged to be due or owing to the said Eastern Band of the Cherokees the same rates of compensation as above mentioned, shall be paid to the said Wallace W. Rollins, and if the compromise or award

shall be of real or other property, then the compensation shall be at the same rate upon the valuation of the said property.

This contract shall continue for four years from the date of its signature of the undersigned the principal chiefs and headmen of the Eastern Band of the Cherokees and Wallace W. Rollins; and the said chiefs and headman, for themselves and the tribe which they represent, hereby revoke all and every other authority which may be claimed or set up by any other person or persons upon any pretense whatever to represent them in the business contemplated and set forth in this contract. This 15th day of May, at Asheville, N. C.

Wallace W. Rollins.	James Blythe.	Jo. Welch.
Saunvoken.	Tom Skellaa.	Tanquilla.
Enola.	Wilson Wolf.	Chequellote.
Big Witch.	Young Squirrel.	Mink.
Oo san uh.	Hugh Lambert, his $\times$ mark.	Long Bear.
John Jackson.	Saw Ya ta-Owl.	Will Pickerwood.
Johnny Light.	Wilson Newcomos.	Johnson Greybeard.
Jackson Blythe.	Jim Boss.	

UNITED STATES OF AMERICA,
Western District of North Carolina.

I, Robert P. Dick, judge of the United States district court within and for said district, do certify that on the 15th day of May, A. D. 1874, personally appeared before me, at Asheville, in the county of Buncombe, within said district, Sawnookee, Enola, Big Witch, Oa saw up, John Jackson, Johnny Light, Jackson Blythe, James Blythe, Tom Shellaa, Wilson Wolf, Young Squirrel, Hugh Lambert, San ya ta owl, Wilson New Comer, Jim Boss, Tanquilla, Chequelle, Mink, Long Bear, Will Peckerwood, and John Greybeard, the principal chiefs and headmen of the Eastern Band of the Cherokees mentioned in the foregoing contract, of the one part, and Wallace W. Rollins of the other part, who acknowledged the execution of said contract in my presence.

I further certify that it appears to me, from the statements of the parties before me, that the Eastern Band of the Cherokees as a tribe and as individuals, are the parties interested of the one part, and Wallace W. Rollins is the party interested of the other part, in the above-mentioned contract; that the authority claimed by the said chiefs and headmen in my presence and in their own proper persons, is that they are the lawful representatives of their tribe, and by virtue of their authority as principal chiefs and headmen of said tribe, they have the power to make the foregoing contract, and in exercise of said power have thereunto agreed and executed the same; and the said Wallace W. Rollins, in my presence and in his own proper person, claims to agree to and execute said contract in his own right and for his own benefit.

Witness my hand and the seal of the said United States district court at Asheville, in the county of Buncombe, in the State of North Carolina, and within the western district of North Carolina aforesaid, the day first above written.

ROBT. P. DICK,
United States District Judge.

UNITED STATES OF AMERICA,
Western District of North Carolina:

I, E. R. Hampton, clerk of the district court of the United States for the western district of North Carolina, at Asheville in said district, hereby certify that the Hon. Robert P. Dick is judge of the district court of the United States for the said western district of North Carolina, and was at the time of the signing of the foregoing instrument; that I am acquainted with his handwriting and know his signature, which appears above to be genuine and true.

In testimony whereof I hereunto set my hand and affixed the seal of said court, at Asheville in said district, this the 16th day of May, A. D. 1874.

[SEAL.]

E. R. HAMPTON,
Clerk of the District Court, Western District, North Carolina.

MARSHALL, N. C., August 5, 1874.

I hereby disclaim any intention to demand or right to receive more than 20 per cent. for all my services under the within contract, and that of same date between John Ross, chief of the Eastern Band of Cherokee Indians, and myself.

WALLACE W. ROLLINS.

I assign one half my interest to the within contract to Otis F. Presbrey, attorney at law, Washington, D. C., August 5, 1874.

W. W. ROLLINS.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
August 24, 1874.

I hereby assent to the foregoing assignment.

H. R. CLUM,
Acting Commissioner.

DEPARTMENT OF THE INTERIOR,
August 25, 1874.

The foregoing assignment is hereby approved.

W. H. SMITH,
Acting Secretary.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
June 24, 1874.

I hereby approve the sixth section of the within contract authorizing the party of the second part—

"To prosecute and attend to personally, and by such attorney or attorneys as he may employ (and whom he is hereby authorized to employ), all suits now pending in the courts of the United States in behalf of the Eastern Band of the Cherokees against any person or persons whatsoever, and such other suits as it may be necessary hereafter to institute in any court of the United States or of the State of North Carolina, or of any other State or Territory, or before any tribunal of arbitration, or reference to establish any right, or redress any wrong or injury done to the said Eastern Band of Cherokees, or to any individual thereof."

In which service the said party of the second part is to receive 20 per cent. of such amount as may be recovered thereby to the Eastern Band of Cherokee Indians.

H. R. CLUM,
Acting Commissioner.

DEPARTMENT OF THE INTERIOR,
August 25, 1874.

I hereby approve the sixth section of the within contract as recited and approved by the Commissioner of Indian Affairs.

W. H. SMITH,
Acting Secretary.

[Inclosure 5.]

AWARD OF BARRINGER, DILLARD, AND RUFFIN.

STATESVILLE, October 24, 1874.

SIR: In submitting the accompanying award in the cause of the Eastern Band of Cherokee Indians against Thomas and others, and Terrell and others, the arbitrators deem it proper to state briefly to your honor the labors and difficulties involved in the investigation. This will enable your honor, and the parties interested, the better to appreciate the results we have reached, both with a view to the compensation to be allowed to those conducting and making the investigation and the indulgence with which the award will be received and accepted.

The commission began its duties on the 7th of August last. Our first sitting was at Asheville, and lasted one week. To accommodate parties and witnesses, and to see for ourselves the condition of affairs among these people, we adjourned on the 15th of August to the Indian settlement at Qualla, sixty-five miles west of Asheville. There we found serious obstacles to a fair and speedy investigation of the peculiar matters referred to us, and we accordingly returned, after a few days, to Waynesville, an intermediate point. At this place we sat some three weeks, working often night and day. We then returned to Asheville, and finally to Greensborough and Statesville. At this last place we concluded our work on the 23d of October, instant.

In the course of our investigations we have sworn and examined nearly one hundred and fifty witnesses, most of them Indians, speaking only Cherokee. We have taken, read, examined, and considered many hundreds of pages of oral, written, and record testimony. The amounts involved embraced hundreds of thousands of dollars received, disbursed, and invested; the accounts and transactions extending through a period of nearly forty years, and often including the minutest details of innumerable small debts with 1,500 Indians through all that time. We were also required to assort, scrutinize, and decide upon the title-papers to a large number of individual land-claims, and fix the location, settlement, and boundary of two immense bodies of disputed claims,

each numbering thousands of acres. All this had to be done in the midst of that confusion and chaos necessarily caused by the peculiar condition and doubtful legal status of these people through near a century of mixed tribal and civilized life. To increase our difficulties and responsibilities, the facts on which we had to decide could only be reached through witnesses of partisan bias, often extremely ignorant, and speaking only through an interpreter.

Under such circumstances as these it could hardly be expected that the rights and interests of the parties involved could be very readily or satisfactorily ascertained or settled; yet we trust and believe we have done substantial justice, and at the same time so marked, defined, and secured the rights of the several parties litigant, as to bring repose and confidence to all concerned, and greatly quicken individual energy and enterprise among both whites and Indians.

We feel sure that for the first time in their history these Cherokees will stand in clear legal right as to their homes and possessions, and that they will now go to work with renewed hope and quickened energy in cultivating and improving the large and valuable claim of over 50,000 acres henceforth undoubtedly theirs, not to include numerous individual titles also adjudged them.

So, too, the government will, for the future, find it a comparatively easy task and grateful duty to superintend this interesting people and protect them in their new condition, and more readily indicate and carry out such policy as it may regard necessary and proper to their progress in the arts of civilized life.

In conclusion, we gladly recommend that proper allowances be made to Deputy Marshal Davis, and his bailiffs, Erwin and Smith, for their services in attending the commission, and in executing process; also to E. R. Hampton, a former referee in the equity suit, for numerous depositions taken by him and used by us.

Respectfully submitted.

RUFUS BARRINGER,
Chairman.

To Hon. R. P. DICK,
Judge of United States District Court, Asheville, N. C.

I, E. R. Hampton, clerk of the United States district and circuit courts for the western district of North Carolina, hereby certify that the foregoing is a true copy of letter from Hon. Rufus Barringer to Hon. Robert P. Dick, judge of the United States district and circuit courts for the western district of North Carolina, and now on file in my office.

As witness my hand and the seal of said circuit court this 23d day of November, A. D. 1874, and in the 99th year of American independence.

[SEAL.]

E. R. HAMPTON, *Clerk.*
By R. H. GRESHAM, *Deputy Clerk.*

In the circuit court of the United States, fourth circuit, and the western district of North Carolina. November term, A. D. 1874, at Asheville.

BETWEEN THE EASTERN BAND OF THE CHEROKEE INDIANS	}	In equity.
and		
WM. H. THOMAS, WM. JOHNSTON, and JAS. W. TERRELL.		

BETWEEN THE UNITED STATES AND THE EASTERN BAND OF	}	Action at law upon J. W. Terrell's bond as disbursing agent of the United States.
the Cherokee Indians		
and		
JAS. W. TERRELL, WM. H. THOMAS, WM. JOHNSON, J. B. Allison, and A. J. Murray.		

Upon motion this day made unto this court by Marcus Irwin, esq., of counsel for the plaintiffs, it was prayed that the writing of award, bearing date the 23d day of October, A. D. 1874, under the respective hands and seals of Rufus Barringer, John H. Dillard, and T. Ruffin, esquires, and by them filed with the clerk of this court, may be made an order of this court; whereupon, and upon hearing N. W. Woodfin, esq., of counsel for the defendants, who consented thereto: This court doth order that the said award be made an order of this court, and that the same be observed and performed by all parties thereto according to the tenor and true meaning thereof; and it is further ordered that said award, with this decree, be enrolled upon the records of this court.

It is further ordered that E. R. Hampton, clerk of this court, be allowed three hundred dollars and his expenses for taking depositions in the equity cause between the plaintiffs and defendants, and that Hamilton Erwin be allowed thirty dollars and his expenses—thirty dollars—total, sixty dollars, for his services as bailiff in attending

upon the court of arbitration, serving processes, and for other duties performed by him during the session of said court at Waynesville.

(Signed)

ROBERT P. DICK, *Judge*.

Rec'd sixty dollars of Ro. M. Douglas, in full of my allowance on within order and decree, Nov. 16, 1874.

(Signed)

HAMILTON ERWIN.

I, E. R. Hampton, clerk of the U. S. district and circuit courts for the western district of North Carolina, hereby certify that the foregoing is a true copy of the final award of circuit court at Asheville, in the Nov. term, 1874, signed by Hon. Robert P. Dick, United States district and circuit judge, as now on file in this office.

As witness my hand and the seal of said circuit court this 23d day of November, A. D. 1874, and in the 99th year of American independence.

[SEAL.]

E. R. HAMPTON, *Clerk*,
By R. H. GRESHAM, *Dep. Clerk*.

In the circuit court of the United States, western district of North Carolina. In Asheville.

THE EASTERN BAND OF THE CHEROKEE INDIANS
against

WILLIAM H. THOMAS, WILLIAM JOHNSTON, AND JAMES W. Terrell.

} In equity.

THE EASTERN BAND OF THE CHEROKEE INDIANS
against

JAMES W. TERRELL, WILLIAM H. THOMAS, WILLIAM JOHNSTON, A. J. MURRAY, AND J. B. ALLISON.

} Suit at law on the bond of J. W. Terrell as the disbursing agent of plaintiffs.

Whereas at the May term, 1874, of said circuit court of the United States held at Asheville, before his honor R. P. Dick, judge, the parties to the above two causes entered into an agreement, in writing, to submit all matters of dispute and controversy between them, as specified and set forth in their said written agreement, to Rufus Barringer, John H. Dillard, and Thomas Ruffin, their award to be final and a rule of court, and said submission to go into effect upon the approval thereof by the said Hon. R. P. Dick, judge of said court, the Secretary of the Interior, the Commissioner of Indian Affairs, and the Department of Justice at Washington City; and whereas their said submission was approved by the said judge of the court and the said several officers at Washington City, as appears from their several indorsements on the said written submission, a copy of which is hereto attached, and to be referred to as a part of this award; and whereas, by virtue of said submission, the reference to the said arbitrators was to be deemed operative and fully authorized as soon as approved as aforesaid:

Now, therefore, we, the undersigned, Rufus Barringer, John H. Dillard, and Thomas Ruffin, having taken upon ourselves the burden of the reference aforesaid, and having heard and duly considered and weighed the several allegations of the said parties, the pleadings in the said two suits, and all the proofs, vouchers, and documents which have been given in evidence before us, and having heard the arguments and suggestions of counsel, do hereby make and publish this our award, in writing, of and concerning all and every the several matters as above referred to us, in the manner following; that is to say:

1. That William H. Thomas became and was the agent of the Eastern Band of the Cherokee Indians living in North Carolina, who are the plaintiffs in the above two causes, after the removal of their brethren west in the year 1838, and as such undertook to purchase, and did purchase, for them land, the amount, location, and boundary whereof will hereinafter be fully described, to be paid for with money or moneys coming to them from the United States under treaties with and the laws of the said United States.

2. That the said William H. Thomas, in pursuance of his said agency and trust reposed in him, did from time to time, and from various persons, purchase lands for the plaintiffs as a tribe and community, and settlement thereon, and carved up the same into towns, which said purchases are included in and make a large tract, situated on Soco Creek and Ocona Lufta River and their tributaries, known as the Qualla Boundary, and bounded as follows, to-wit: Beginning at a stump near the spring on Jackson County line at the head of Jonathan's Creek, where the Soco road crosses the mountain; thence in a northerly direction with the said county-line to the ridge which divides the waters of the Ravin's Fork from Bradley or west fork of Ocona Lufta River; thence with the watershed of that ridge to the line of Widow Hugh's; thence east-

wardly with her line, crossing Ravin's Fork; thence down, and with her lines and the lines of Wesley M. Enloe, to the Ocona Lufta River; thence down with the meanders of said river to the southern boundary of Samuel Monteith; thence across said river and with said Monteith's line to his southwest corner; thence with the lines of an entry made by W. H. Thomas and other lines of said Thomas, keeping on his outside lines to the dividing-ridge between the waters of Adam's Creek and Newton's Mill Creek, so running said line as to include all Indians living on the headwaters of said Adam's Creek; thence in a southerly direction, keeping on the watershed of said ridge to the line of Sim Sherrell; thence with his line to Ocona Lufta River, the last two lines being run so as to include all the Indian settlements on the east side of Newton's Mill Creek; thence with and across the said Ocona Lufta River to the upper boundary of J. M. Bird; thence with this line to the corner of the first tract of what is known as the State surveys above the said Bird; thence up said river with the lines of said State surveys so as to include one tier of old surveyed tracts bordering on said river, and striking said river below Ute Sherrell's, excluding the tract now occupied by J. A. Gibbs, and also some entries known as Thomas's entries; thence up and with the meanders of said river to a tract of land occupied by an Indian named Ah-ma-cha-ma; thence with the line of that tract, and including the same, to the old line of Scroop Enloe, or near it, but so as to exclude the tract now occupied by Mason Reckley; thence with the line of the tract so occupied by Reckley, crossing the Soco Creek below his house, to the old line of said Scroop Enloe; thence with Enloe's line to the line of Thomas's mill-tract; thence with the line of said mill-tract and with the line of an entry known as Thomas's five-hundred-acre entry, and leaving the same outside, to the line of J. B. Sherrell; thence with his line to the line of a tract conveyed to Flying Squirrel by J. W. King; thence with the line of that tract, and so run as to include it, to the line of the Thompson Carter tract; thence with that tract, and so run as to include it, to the top of the ridge which makes the watershed between Soco Creek and Shoal Creek; thence with the said watershed to the south corner of the Cathcart survey; thence with the line of that survey to the beginning, at the head of Jonathan's Creek.

3. That within the said Qualla Boundary so as aforesaid purchased for the tribe as a community, the said Thomas, at divers times, sold and conveyed by deed several tracts of land to the following individual Indians, to wit: To Enola (or Black Fox), 40 acres; to One-tah, 33 acres; to Standing Wolf and children, 286 acres; to Catalaska, three tracts, making together 110 acres; to Charlie Hornbuckle's heirs, 100 acres; to Sa-lu-netah (or Young Squirrel), 53 acres; to Nellie Johnson, 200 acres; and to Jinney Reed, 200 acres, and received from them, respectively, the purchase-money; the locations and boundaries of which said tracts fully appear from the accompanying deeds to the said parties from said Thomas; and also that the said Thomas, at divers times, contracted in writing to sell several other tracts within said Qualla Boundary to the following individual Indians, to wit: To Chu-lo-gu-lah (or Cloud), 50 acres; Wilson Oocumuh, two tracts, one of 20 acres and the other known as the Caynatago tract; the heirs of Jeff. Hornbuckle, 200 acres; to Sawnooka, the lands surveyed by Dills, being a part of the Holland's old field; to Ben Quain, 50 acres, where he lives; to the heirs of Long Blanket, the place where they live; to the heirs of Little Witch, the place where they live; to Wilson Wolf, the mill-tract purchased of Abraham Mingus; to Ta-a-kah, the tract known as the Thompson place; to Wilson Reed, 125 acres, surveyed to him by Terrell; to Standing Water, the place where he now lives; to Ta-ya-hah, a part of the Holland's old field; to Tah-gul-se-nah, the place now occupied by him; and received from them, respectively, in whole or in part, the purchase-money, the location of which said tracts, so contracted to be sold, will appear by the several accompanying titles, bonds, and other memoranda from said Thomas to said Indians. We do, therefore, award that the general boundary, known as the Qualla Boundary, and above described, belongs to, and shall be held by, the Eastern Band of Cherokee Indians living in the State of North Carolina, as a tribe or community, and whether living at this time at Qualla or elsewhere in the State; and that the individual Indians above named as holding under said Thomas, either by deed or contract, shall hold and possess their several tracts as their separate property, with the quality of being inheritable, but without the power of alienation except from one Indian to another, and then only with the assent of their council. All the above, however, to be subject to the payment of a sum of money to William Johnston, as hereinafter provided.

4. We find that the wife and children of an Indian named Little John have a deed to a tract of land situated on the south side of Tuckasegee River, and outside of said Qualla Boundary, for 173 acres, on which they now live, and we award that the same is a good title as against all parties and privies to these suits. We further find that the said wife and children of the said Little John have a title-bond from said Wm. H. Thomas for 100 acres of land, to be curved off from a tract of land adjoining the lands last spoken of, so as to embrace 100 acres of land on both sides of the Skeekee's Branch,

and that they have paid for the same in full. Also that the heirs of Will-gees-ka have a title-bond from Wm. H. Thomas for the tract of land on which they live, adjoining the above lands of the Little John's and on the south side of said Tucka-seigee River, for which they have paid in full. We do, therefore, award that the said defendants, Thomas and Johnson, do lay off and convey to the said wife and children of the said Little John the said 100 acres to embrace both sides of said Skeekee's Branch; and also that they convey unto the said heirs of Will-gees-ka the land on which they live.

5. We find that at one time it was contemplated between said Thomas and the Indians residing in the region described in the pleadings as Cheoih to make a similar purchase of a general boundary of land in that section of the State, and that there was a written agreement to that affect between them; but afterward the Indians declined to furnish, and did not furnish, the funds necessary to make such purchase; and we therefore award that the said agreement between them and Thomas to make such purchase was abandoned; and that in lieu thereof the following individual Indians made separate purchases from Thomas and others, and have deeds or other sufficient title therefor, to wit:

Sakah, 100 acres in district No. 9, section 589.

Corn-silk, 100 acres in district No. 9, section 347.

Corn-silk, 100 acres in district No. 10, section 374.

Chick-a-lilla, 100 acres in district No. 9, section 363.

Chick-a-lilla, 48 acres in district No. 9, adjoining section 363.

Walla-na-kah, 100 acres in district No. 10, section 552.

Ches-que-ne-tah (or Young Bird), son of Ty-al-ta, 100 acres in district No. 9, section 364.

Tom Big-meat, 100 acres in district No. 9, section 359.

Tom Big-meat, 90½ acres in district No. 9, section 360.

Con-na-see-nah, 100 acres in district No. 10, section 386.

And these having all paid the purchase-money in full, we do award that they hold and have title in fee as against said Thomas and Johnson, and all other parties and privies to these suits.

We find further that the following Indians and persons of Indian blood have written contracts for title to lands in Cheoih from Wm. H. Thomas, and are entitled to specific execution thereof, they having paid the purchase-money in full therefor, to wit:

Ka-yu-kah (or Ground Squirrel), for 288 acres in district No. 10, section No. 23, Cherokee County.

James Taylor, district No. 7, in Cherokee County, Nos. 19, 21, and 27.

That the following have contracts in writing for the purchase of lands, and are entitled to specific performance thereof whenever they shall make full payments of the purchase-money to wit:

Dick-a-gees-ku's heirs, for 100 acres in district No. 9, section 367.

Oo-tal-ka-nah, 100 acres in district No. 9, section 373.

Chin-a-que (or John Owl), the land whereon he lived in 1855, in Cherokee County, excepting all mineral interests.

Too-way al-lah, part of No. 12, district No. 10.

Corn-silk, 100 acres in district No. 9, section 588.

Tracking Wolf, district No. 9, section 404.

Richard Henson and others, and their heirs, 210 acres, in district No. 5, section 11.

Richard Henson, 157 acres in district No. 5, section 14, with a bounty-claim of 2,700 acres.

Sal-ka-nah and others, 80 acres in district No. 6.

Tes-a-tees-kah, 100 acres in district No. 9.

George Oo-yah-ste-ah, district No. 9, section 365.

Cah-nah-a-to-go and others, district No. 9, section 405.

Cohe-loskah, 120 acres in district No. 9, section 93.

Too-nah-lu-yah, Chees-que-ne-tah, Te-tal-ka-nah, no districts or section given.

We do, therefore, award that Ka-yu-kah (or Ground Squirrel) and James Taylor have a perfect equitable title in fee to their said sections of land, and that W. H. Thomas and William Johnston do execute deeds to them severally therefor; and as to all the others above mentioned, we award that they have respectively an equity to have title, and that the same be made to them by the said Thomas and Johnston upon the payment of the purchase-money still due from them; and the said Thomas, or Johnston, as the case may be, shall have a right, in default of such payment of the purchase money, to enforce the same by sale of their lands, respectively, according to law.

6. We find that in the course of the agency and trusteeship of the defendant Thomas for the plaintiffs he received, in the way of payments by the government, contributions from individual Indians, and from sales of lands, within the said common boundary at Qualla, to individual Indians, large sums of money; that, on the other hand, by

reason of the purchase for them of their lands, by his services rendered them in securing their claims, and by his furnishing them, through a long series of years, with clothing, food, farming-tools, and other necessary supplies, they became largely indebted to him; that after adjusting all claims of every kind and description between them, except as hereinafter mentioned, we find that the said Indians owe the said Thomas a balance toward the purchase-money of the said Qualla Boundary of \$1,850; that after the purchase of the said lands by the defendant Johnston, under his executions against the defendant Thomas, the plaintiffs, in pursuance of a contract made with the said Johnston, for the redemption of said lands, on the 29th day of September, 1863, paid to him, the said Johnston, the sum of \$6,500, which said payment we award that the said Johnston shall apply as a credit on his said judgments against Thomas as money paid by the plaintiffs toward the balance above stated as due from them to Thomas; that the said sum of \$6,500, with interest to this day, amounts to the sum of \$8,486, thus reducing said balance due Thomas to the sum of \$9,764.

7. We find, in the suit at law on the bond of Terrell and his sureties, that the said defendant Terrell paid over to the said defendant Thomas, his bondsman, the sum of \$2,478, which is sought to be recovered in said suit on his bond, relying on him to pay it out to those entitled; and we further find that though such payment to Thomas was not in strict compliance with the conditions of his bond, yet the same being paid to Thomas, to whom the plaintiffs were owing a balance of purchase-money for their lands, and who then had a power of attorney from the plaintiffs authorizing him to receive the same and apply it toward the payment of said purchase-money for their lands, we do therefore award that the said sum with its interest, this day making \$2,697.89, be deducted from the above balance of \$9,764, thus reducing it to the sum of \$7,066.11, and upon the payment of this last-mentioned sum, to wit, the sum of \$7,066.11, with its interest from this date at the rate of six per cent. per annum, to the said defendant Johnston, and by him to be entered as a credit on his said judgments against Thomas, we do further award that the said plaintiffs shall have a perfect equity to demand and have of him, the said Johnston, a conveyance of the legal title to all the lands embraced within their said Qualla Boundary, the same to be made to them, or to some trustee for them; and until such conveyance be made, the said Johnston, so soon as said balance is paid him, shall, himself, stand seized as a naked trustee of said lands to the use of said plaintiffs; and the said sum of \$2,697.89, so sued for as aforesaid, in the action at law, being applied as above set forth on the said balance due for the purchase-money, we do therefore further award that the plaintiffs do recover in the said suit at law the penalty of said Terrell's bond, to be discharged on the payment of a penny and the costs of that action, to be taxed by the clerk.

8. Wishing to secure repose of title to the parties and to end litigation between them, we have taken into consideration all accounts, claims, and demands between the said plaintiffs as a tribe, and each and every member of the tribe, wherever residing in the State of North Carolina, and W. H. Thomas and William Johnston, and either of them, and we do hereby award that all such accounts, claims, and demands are to be treated as concluded and adjusted between them, and in no way collectable and enforceable, save and except as is hereinbefore provided in relation to contracts for sales of land, and save and except the matters of controversy between the members of the Raper family in regard to their reservation-money. This latter being already the subject of litigation in our State courts, we have not considered, but leave the same to be settled in said State courts.

9. We find that William H. Thomas purchased the Cathcart survey of 33,000 acres, and other adjoining tracts and entries, out of part of which the said Qualla Boundary is composed, and that he extinguished the titles of all whites inside of said boundary, with the single exception of that one of Ute Sherrell, and that but few of his title-papers have been registered, and but few of his deeds to, and his written contracts of sale with, said Indians, whether at Qualla or elsewhere, have been registered. We do therefore award that all of said deeds to Thomas, under which the said Indians claim, and all his deeds and written contracts of sale to them or any of them, shall be registered in the proper offices of the State; and to the end that this may be properly attended to by some competent person, we do award that all such deeds and contracts be delivered to W. W. Rollins, one of plaintiffs' agents, for registration.

10. In considering the compensation due to the defendant Thomas, as agent of the plaintiffs, we have estimated his fees and commissions only on the moneys heretofore actually paid to the Indians. On these amounts we award that said Thomas shall claim no further compensation, either directly from the Indians or indirectly through the government. But we further find that by a special contract of November 25, 1860, the said Thomas is entitled to compensation of ten per cent. on all moneys said Indians may receive from lands sold for their benefit west of the Mississippi, mainly secured through his efforts, and which contract it is not intended to impair. We therefore award that the said Thomas be allowed said rate of ten per cent. on all

moneys said Indians may hereafter receive from said western land-fund, to be paid when the same is actually realized by the said Indians, and not otherwise.

11. The costs of the suit at law having been hereinbefore disposed of, we award that all the other costs be taxed in the equity case, and be paid one half by the plaintiffs and the other half by the defendants, W. H. Thomas and William Johnston. We leave the allowance to the arbitration, and the manner of its payment to be fixed and provided for by the judge.

All of which is respectfully submitted, under our hands and seals, this 23d day of October, 1874.

(Signed)

RUFUS BARRINGER, [SEAL.]
JOHN H. DILLARD, [SEAL.]
T. RUFIN, [SEAL.]

In the circuit court of the United States, western district of North Carolina.—May term, 1874.

THE EASTERN BAND OF THE CHEROKEE INDIANS <i>vs.</i> W. H. THOMAS, WILLIAM JOHNSTON, AND J. W. TERRELL.	} In equity.
THE EASTERN BAND OF THE CHEROKEE INDIANS <i>vs.</i> JAMES W. TERRELL, W. H. THOMAS, WILLIAM JOHNSTON, A. J. MURRAY, and J. B. ALLISON.	
	} Suit at law on bond.

The above causes, together with all unsettled matters connected therewith in law and equity between said parties or any of them, as well as any and all unsettled matters between any of said parties and any of the Cherokee Indians residing in North Carolina, growing out of any of the dealings between said Indians, or any of them, and William H. Thomas, acting as their agent or otherwise, especially in relation to their alleged indebtedness to him for services, supplies, &c., and his alleged indebtedness to them on account of the management, disposal, nor investment of their funds in his hands as agent or otherwise; and touching all contracts in relation to lands, and for services rendered, or otherwise, for or with them, or otherwise; also all unsettled matters growing out of the agency of James W. Terrell as a disbursing-agent of the government, as well as all matters of controversy between the said Indians, or any of them, and William Johnston, defendant, touching the right to land purchased by him at execution-sale as the property of William H. Thomas, as well as the contracts of sale of 1869 between him and the said Indians, are referred to the arbitrament and award of John Dillard, esq., of Greensborough, Thomas Rufin, of Hillsborough, and General Rufus Barringer, of Charlotte, and their award, or that of a majority of them, shall be a rule of court in all matters involved in said suits, and shall be final and forever obligatory between the parties as to all matters herein referred. If either of said arbiters shall not, for any cause, serve, then the other two are authorized to proceed to act, or to select a third person to act with them, and in that case the award of a majority of them shall be conclusive.

This reference is to go into effect when approved by his honor R. P. Dick, judge of this court, the Secretary of the Interior, the Commissioner of Indian Affairs, and the Department of Justice at Washington City.

WM. H. THOMAS,
By JAS. W. TERRELL, *Agent*.
JAS. W. TERRELL.
WM. JOHNSTON.
THE EASTERN BAND OF CHEROKEE INDIANS,
By W. W. ROLLINS, *Agent and Attorney*.

Approved:

N. W. WOODFIN, *Attorney for Wm. H. Thomas*.

Approved:

MARCUS ERWIN, *Asst. U. S. Dist. Attorney*.

Approved:

ROBT. P. DICK, *U. S. District Judge*.

Approved:

OFFICE OF INDIAN AFFAIRS, June 17, 1874.

EDW. P. SMITH, *Commissioner*.

Approved:

DEPARTMENT OF THE INTERIOR, June 17, 1874.

C. DELANO, *Secretary*.

Approved June 17, 1874.

GEO. H. WILLIAMS, *Attorney-General*.

I, E. R. Hampton, clerk of the circuit court for the western district of North Carolina, hereby certify that the foregoing is a true copy of the original paper on file in my office, as witness my hand and the seal of said court this 30th day of June, A. D. 1874.

E. R. HAMPTON,
Clerk.
By R. H. GRESHAM,
Deputy Clerk.

I, E. R. Hampton, clerk of the United States district and circuit courts for the western district of North Carolina, hereby certify that the foregoing is a true copy of the award by the arbitrators, Rufus Barringer, John H. Dillard, and Thomas Ruffin, and accompanying papers, as on file in my office.

As witness my hand and the seal of said circuit court this 23d day of November, A. D. 1874, and in the ninety-ninth year of American Independence.

[SEAL.]

E. R. HAMPTON,
Clerk.
Per R. H. GRESHAM,
Deputy Clerk.

[Inclosure 6.]

Whereas under an award made by Rufus Barringer, John H. Dillard, and Thomas Ruffin, arbitrators in the case of the "Eastern Band of Cherokee Indians *against* William H. Thomas, William Johnston, et al." in the circuit court of the United States for the western district of North Carolina, James W. Terrell and Thomas D. Johnston were by a decree of said court appointed commissioners to sell certain lands referred to us in said award to discharge and pay off the judgments therein awarded to be due William Johnston from William H. Thomas, which said lands had theretofore been sold under executions on said judgments and conveyed by deeds executed by the sheriff of the counties of Cherokee, Macon, and Jackson, to said William Johnston; and whereas since the date of said decree said judgments have been purchased by and duly assigned to the Commissioner of Indian Affairs of the United States in trust and for the benefit of the Eastern Band of Cherokees, and on the 14th day of August, A. D. 1876, an act of Congress was passed and ratified authorizing the Commissioner of Indian Affairs to purchase and receive certain lands therein referred to in full payment and final discharge of the aforesaid judgments in trust and for the use and benefit of said Eastern Band of Cherokees; and whereas in pursuance to the provisions of said act of Congress, Mark C. King, on the part of the Commissioner of Indian Affairs, and William A. Dill, on the part of Wm. H. Thomas, were selected as appraisers to value and appraise the lands hereinafter described which are referred to in the aforementioned award and were duly selected by said Eastern Band of Cherokees through a committee appointed by them at their annual general council held at Cheoah council grounds, in Graham County, North Carolina, on the first Monday of October, A. D. 1876, said appraisals being ratified and approved by the said "the Commissioner of Indian Affairs";

Now, therefore, in consideration of the above recited facts and in satisfaction of the said judgments, amounting at this date to twenty thousand five hundred and sixty-one and 85-100 dollars, the following indenture is executed:

This indenture, made and executed this 9th day of October, A. D. 1876, between William Johnston and wife, Lucinda M. Johnston, of the county of Buncombe, State of North Carolina, and James W. Terrell, of Jackson County, and Thomas D. Johnston, of Buncombe County, State aforesaid, commissioners named in said award and agents and attorneys for William H. Thomas, by virtue of a power of attorney to them, dated the 3rd day of June, 1875, a copy of which is hereto annexed, of the first part; and the Commissioner of Indian Affairs, as trustee for said Eastern Band of Cherokee Indians, of the second part, witnesseth:

That the said parties of the first part, in consideration of the premises and in the further consideration of the payment of the amount and final discharge of said judgments, the receipt whereof is hereby confessed and acknowledged, have bargained, sold, remised, released, and quit-claimed, and by these presents do bargain, sell, remise, release, and quit-claim to the party of the second part as trustee for the Eastern Band of Cherokee Indians of the State of North Carolina, all their right, title, interest, claim, or demand whatsoever, in and to the following described lands, to-wit:

In Graham County, North Carolina, district number nine, grant number ninety-six, containing 228 acres, more or less.

2. Grant number eighty-six, containing 138 acres, more or less.

3. Grant number ninety, containing 141 acres, more or less.

4. Grant number one hundred, containing 138 acres, more or less.
 5. Grant number eighty-seven, containing 180 acres.
 6. Grant number eighty-nine, containing 50 acres.
 7. Grant number seventy-nine, containing 60 acres.
 8. Grant number seventy-six, containing 140 acres.
 9. Grant number ninety-four, containing 204 acres.
 10. Grant number seventeen, containing 118 acres.
 11. Grant number ninety-five, containing 222 acres.
 12. Grant number seventy-seven, containing 163 acres.
 13. Grant number seventy-five, containing 137 acres.
 14. Grant number ninety-one, containing 229 acres.
 15. Grant number eighty-eight, containing 100 acres.
 16. Grant number one hundred and two, containing 269 acres.
 17. Grant number ninety-two, containing 120 acres.
 18. Grant number eighty-one, containing 202 acres.
 19. Grant number forty-seven, containing 68 acres.
 20. Grant number twenty-nine, containing 65 acres.
 21. Grant number one hundred and three, containing 105 acres.
 22. Grant number three hundred and sixty-nine, containing 100 acres.
 23. Grant number twenty, containing 225 acres.
 24. Grant number eighteen, containing 91 acres.
 25. Grant number one hundred & one, containing 151 acres.
 26. Grant number fifty-five, containing 50 acres.
 27. Grant number thirty-seven, containing 76 acres.
 28. Grant number twenty-five, containing 346 acres.
 29. Grant number nine, containing 269 acres.
 30. Grant number twenty-two, containing 400 acres.
 31. Grant number thirteen, containing 303 acres.
 32. Grant number two, containing 227 acres.
 33. Grant number fifteen, containing 275 acres.
 34. Grant number three, containing 254 acres.
- In district number ten (10):
35. Grant number eight, containing 400 acres.
 36. Grant number one, containing 262 acres.
 37. Grant number five hundred and eighty-four, containing 100 acres.
 38. Grant number four hundred and eighty-two, containing 100 acres.
 39. Grant number three hundred and eighty nine, containing 100 acres, amounting in the aggregate to six thousand eight hundred and nine acres in the county of Graham.

In Jackson County the following lands:

40. The strip of land adjoining the Qualla boundary on the south, beginning at a post set by M. S. Temple, surveyor, at the ford of Soco Creek, and running thence easterly along the water-divide of the ridge, south of Soco Creek, until it intersects the Indian boundary at the top of said ridge, opposite Echota Mission, and including all the lands between the said water-divide and the present Indian boundary, containing 700 acres, more or less.

In Cherokee County:

41. The lot in Cherokee County, on the headwaters of Valley River, now occupied by Eli Ingram, containing 100 acres, more or less.

42. Also a lot in such county adjoining the lands of Messrs. Fair, on the north side of Valley River, in district number six, containing one hundred acres, more or less.

43. Also three thousand and fifty-two acres of land lying on the waters of Valley River and Vengeance Creek, comprising tracts to be hereafter surveyed, and so as to embrace the lands occupied by Johnson Greybeard and Nancy and Rose Hawkins. The above being the lands selected by the Indians, and described in the report of the appraisers; also the following lands mentioned in the aforesaid award, to wit:

44. In Cherokee County the lands occupied by the Indian Chinaque or John Owl, containing 100 acres.

45. The lands occupied by Richard Henson and others and their heirs, containing 210 acres.

46. Lands occupied by Richard Henson and others, containing one hundred fifty-seven acres.

47. Lands occupied by Richard Henson and others and their heirs, containing 2,700 acres.

The last three tracts being Dist. No. 5, and comprising what is known as the "Henson Donation."

In Graham County the following lands:

48. Lands occupied by Dickageeskin's heirs, containing 100 acres, being section 367, in district nine.

49. Lands occupied by Ootalkanah, section three hundred seventy-three, in district nine, containing one hundred acres.

50. Lands occupied by Two-way-allah, part of number twelve, in district No. 10, containing 100 acres.

51. Lands occupied by Cornsilk, section five hundred and eighty-eight, in district nine, containing 100 acres.

52. Lands of Tracking Wolf, section four hundred and four, district No. 9, containing 83 acres.

53. Lands of Salkanah and others, district number six, containing eighty acres.

54. Lands of Ter-a-tees-kah, in district No. nine, containing 100 acres.

55. Lands of George Ooyahsteah, section 365, in district No. 9, containing 100 acres.

56. Lands of Cah-nah-a-to-go and others, section 405, in district No. 9, containing 100 acres.

57. Lands of Coheloskah, section 93, in district No. 9, containing 120 acres.

58. Lands of Too-nah-lee-yah, in district nine, containing 100 acres.

59. Lands of Cheesquenetak, in district nine, containing one hundred acres.

60. Lands of Te-tal-kanah, in district nine, containing one hundred acres.

The aggregate number of acres of lands described in said award being four thousand four hundred and fifty, and lying in Cherokee and Graham Counties.

To have and to hold the aforesaid lands and premises, with all the appurtenances thereunto belonging, to the said "the Commissioner of Indian Affairs" and his successors in office, as trustee for the use and benefit of the Eastern Band of Cherokee Indians of North Carolina forever; and the said William Johnston and Lucinda M. Johnston do covenant to and with the party of the second part, that they will warrant and defend the interests herein conveyed by them free and discharged from the lawful claims of all parties claiming the same by, through, or under them, or either of them; and the said James W. Terrell and Thomas D. Johnston, as commissioners and agents aforesaid, do covenant that they will warrant and defend the same free from the claims of all persons claiming same by, through, or under them, so far forth as they are authorized and required to do by virtue of their offices as commissioners and agents aforesaid, and no further.

In testimony whereof the parties of the first part have hereunto set their hands and seals this the 9th day of October, A. D. 1876.

In presence of:

WM. JOHNSTON.	[SEAL.]
L. M. JOHNSTON.	[SEAL.]
JAS. W. TERRELL.	[SEAL.]
THOS. D. JOHNSTON.	[SEAL.]

In the probate court.

BUNCOMBE COUNTY:

Be it known that on this the 9th day of October, 1876, before the undersigned, judge of probate in and for said county of Buncombe, personally came William Johnston and wife, Lucinda M. Johnston, and Thomas D. Johnston, of Buncombe County, and James W. Terrell, of Jackson County, the parties described in, and who executed the foregoing deed of conveyance to "the Commissioner of Indian Affairs," and each duly acknowledged the execution by himself and herself of said deed for the purposes therein mentioned. And thereupon the said Lucinda M. Johnston, being by me privately examined, separate and apart from her husband, doth declare upon examination that she executed the same freely, voluntarily, and of her own accord, without any fear, force, or undue influence on the part of said husband or any one else, and that she doth still voluntarily assent thereto.

Therefore let said deed and their certificate be registered.
[SEAL.]

J. E. REED,
Judge of Probate.

[Inclosure 7.]

This indenture, made this 9th day of October, 1876, between William Johnston and wife, Lucinda M. Johnston, of the county of Buncombe, State of North Carolina, of the first part, and the Eastern Band of North Carolina Cherokee Indians of the second part, witnesseth: that, whereas, at the November term, 1874, of the circuit court of the United States for the western district of North Carolina, the case of the Eastern and of the Cherokee Indians against Wm. H. Thomas, William Johnston, and James W. Terrill in equity, and the case of the United States and the Eastern Band of Cherokee Indians *vs.* James W. Terrill *et al.*, came on to be finally heard together upon the award of Rufus Barringer, John H. Dillard, and T. Ruffin, the arbitrators duly appointed at the May term, 1874, of said court, to hear and deter-

mine the matters in controversy between said parties, and which award has been rendered to the court, and states, among other things:

1st. That William H. Thomas became and was the agent of the Eastern Band of the Cherokee Indians living in North Carolina, who are the plaintiffs in the above two causes, after the removal of their brethren west in the year 1838, and as such undertook to purchase, and did purchase for them land, the amount, location, and boundary whereof will hereinafter be fully described, to be paid for with money or moneys coming to them from the United States under treaties with and the laws of the said United States.

2nd. That the said William H. Thomas, in pursuance of his said agency and trust reposed in him, did, from time to time, and from various persons, purchase lands for the plaintiffs as a tribe and community and settlement thereon, and carved up the same into towns, which said purchases are included in and make a large tract situated on Soco Creek and Ocona Lufta River and their tributaries, known as the Qualla Boundary, and bounded as follows, to wit: Beginning at a stump near the spring on Jackson County line, at the head of Jonathan's Creek, where the Soco road crosses the mountain; thence in a northerly direction with the said county line to the ridge which divides the waters of the Ravin's Fork from Bradley, or west fork of Ocona Lufta River; thence with the water-shed of that ridge to the line of Widow Hugh's; thence eastwardly, with her line, crossing Ravin's Fork; thence down, and with her lines and the lines of Wesley M. Enloe, to the Ocona Lufta River; thence down with the meanders of said river to the southern boundary of Samuel Monteith; thence across said river, and with said Monteith's line, to his southwest corner; thence with the lines of an entry made by W. H. Thomas, and other lines of said Thomas, keeping on his outside lines to the dividing ridge between the waters of Adam's Creek and Newton's Mill Creek, so running said line as to include all the Indians living on the headwaters of said Adam's Creek; thence in a southerly direction, keeping on the water-shed of said ridge, to the line of Sim Sherrell; thence, with his line, to Ocona Lufta River; the last two lines being run so as to include all the Indian settlements on the east side of Newton's Mill Creek; thence with and across the said Ocona Lufta River, to the upper boundary of J. M. Bird; thence, with his line, to the corner of the first tract of what is known as the State surveys above the said Bird; thence up said river, with the lines of said State surveys so as to include one tier of old surveyed tracts bordering on said river, and striking said river below Ute Sherrell's, excluding the tract now occupied by J. A. Gibbs, and also some entries known as Thomas's entries; thence up, and with the meanders of said river, to a tract of land occupied by an Indian named Ah-ma-chama; thence, with the line of that tract, and including the same, to the old line of Seroop Enloe, or near it, but so as to exclude the tract now occupied by Mason Reckley; thence, with the line of the tract so occupied by Reckley, crossing the Soco Creek below his house, to the old line of said Seroop Enloe; thence, with Enloe's line, to the line of Thomas's mill tract; thence, with the line of said mill tract and with the line of an entry known as Thomas's five hundred acre entry, and leaving the same outside, to the line of J. B. Sherrells; thence, with his line, to the line of a tract conveyed to Flying Squirrel by J. W. King; thence, with the line of that tract, and so run as to include it, to the line of the Thompson Carter tract; thence with that tract, and so run as to include it, to the top of the ridge which makes the water-shed between Soco Creek and Shoal Creek; thence, with the said water-shed, to the south corner of the Cathcart survey; thence, with the line of that survey to the beginning at the head of Jonathan's Creek.

3d. We do, therefore, award that the general boundary, known as the Qualla Boundary, and above described, belongs to, and shall be held by the Eastern Band of Cherokee Indians, living in the State of North Carolina, as a tribe or community, and whether living at this time at Qualla or elsewhere in the State; and that the individual Indians above named as holding under said Thomas, either by deed or contract, shall hold and possess their several tracts as their separate property, with the quality of being inheritable, but without the power of alienation except from one Indian to another, and then only with the assent of their council. All the above, however, to be subject to the payment of a sum of money to William Johnston as hereinafter provided.

6th. We find that in the course of the agency and trusteeship of the defendant Thomas for the plaintiffs he received, in the way of payments by the government, contributions from individual Indians, and from sales of lands, within the said common boundary at Qualla to individual Indians large sums of money; that on the other hand, by reason of the purchase for them of their lands, by his services rendered them in securing their claims, and by his furnishing them, through a long series of years, with clothing, food, farming tools, and other necessary supplies, they became largely indebted to him; that after adjusting all claims of every kind and description between them, except as hereinafter mentioned, we find that the said Indians owe the said Thomas a balance towards the purchase money of the said Qualla Boundary of \$18,250; that after the purchase of the said lands by the defendant Johnston, under his executions against the defendant Thomas, the plaintiffs in pursuance of a contract made

with the said Johnston for the redemption of said lands on the 29th day of September, 1869, paid to him, the said Johnston, the sum of \$6,500, which said payment we award that the said Johnston shall apply as a credit on his said judgments against Thomas as money paid by the plaintiffs toward the balance above stated as due from them to Thomas; that the said sum of \$6,500 with interest to this day amounts to the sum of \$8,486, thus reducing said balance due Thomas to the sum of \$9,764.

7th. We find, in the suit at law on the bond of Terrell and his sureties, that the said defendant Terrell paid over to the said defendant Thomas, his bondsman, the sum of \$2,478, which is sought to be recovered in said suit on his bond, relying on him to pay it out to those entitled; and we further find that though such payment to Thomas was not in strict compliance with the conditions of his bond, yet this sum being paid to Thomas to whom the plaintiffs authorizing him to receive the same and apply it toward the payment of said purchase money for their lands, we do, therefore, award that the said sum with its interest, this day making \$2,697.89, be deducted from the above balance of \$9,764, thus reducing it to the sum of \$7,066.11; and upon the payment of this last mentioned sum, to wit, the sum of \$7,066.11 with its interest from this date at the rate of six per cent. per annum, to the said defendant Johnston, and by him to be entered as a credit on his said judgments against Thomas, we do further award that the said plaintiffs shall have a perfect equity to demand and have of him, the said Johnston, a conveyance of the legal title to all the lands embraced within their said Qualla Boundary, the same to be made to them or to some trustee for them; and until such conveyance be made the said Johnston, so soon as said balance is paid him, shall himself stand seized as a naked trustee of said lands to the use of said plaintiffs.

And whereas, upon such final hearing, it was ordered and decreed by the court that the "award of said arbitrators be made an order of this court, and that the same be observed and performed by all the parties thereto according to the tenor and the meaning thereof": Now this indenture witnesseth, that the said party of the first part, in consideration of the aforesaid sum of seven thousand and sixty-six dollars and eleven cents, awarded by said arbitrators, and to him in hand paid by the Eastern Band of North Carolina Cherokee Indians at and before the sealing and delivery of these presents, the receipt and payment whereof he doth hereby acknowledge, hath granted, bargained, sold, released, and confirmed, and by these presents, in pursuance of the said order of court, and by force and virtue thereof, doth grant, bargain, sell, release, and confirm unto the said party of the second part, their heirs and successors, all that certain piece and parcel of land situate, lying, and being in the State aforesaid, and bounded and described as follows, to wit:

Beginning at a stump near the spring on Jackson County line, at the head of Jonathan's Creek, where the Socco road crosses the mountain, running thence N. 42 $\frac{1}{2}$ ° W., variation 2° 25' E. with the line of said county, 173 chs. 14 lks. to a mound of stones on the Swaine County line; thence with said line N. 58° E. 1 ch. 16 lks.; thence E. 1 ch. 11 lks.; thence N. 62° E. 2 ch. 65 lks. to a chestnut marked "I. B.;" thence N. 62° E. 8 ch. 15 lks.; thence N. 43° E. 5 ch. 50 lks.; thence N. 55° E. 6 ch.; thence N. 62° E. 2 ch. 29 lks.; thence N. 62 $\frac{1}{2}$ ° E. 3 ch. 87 lks. to a stake, county corner; thence N. 70° E. 1 ch. 50 lks.; thence N. 13° W. 10 ch. 58 lks.; thence N. 29° E. 4 ch. 58 lks.; thence N. 20° E. 4 ch. 98 lks.; thence N. 22° E. 7 ch.; thence N. 6° E. 2 ch. 66 lks.; thence N. 16° W. 4 ch. 83 lks.; thence with said county line N. 16° W. 5 ch. 5 lks.; thence N. 2 ch.; thence N. 33° E. 5 ch.; thence N. 39° E. 7 ch. 40 lks. to a chestnut 28 in. in diameter, marked "I. B.;" thence N. 56 $\frac{1}{2}$ ° E. 5 ch. 61 lks.; thence N. 41° E. 2 ch. 14 lks.; thence N. 16° W. 2 ch.; thence N. 22° W. 3 ch. to a chestnut 14 in. in dia., "I. B.;" thence N. 22° W. 3 ch.; thence N. 36° W. 4 ch. 80 lks. to a post in mound three and one-half mile station; thence with water-shed of Jonathan's Creek and Bunches Creek and Swaine Co. line N. 36° W. 1 ch. 25 lks.; thence N. 45° W. 2 ch. 25 lks.; thence N. 2° E. 6 ch.; thence N. 17° W. 6 ch. 50 lks.; thence N. 4° E. 6 ch. 50 lks. to a chestnut 24 in. in dia., "I. B.;" thence N. 21° W. 2 ch. 75 lks.; thence N. 8° 3 ch. 75 lks.; thence N. 73° E. 6 ch.; thence N. 60° E. 5 ch. to post in mound, fourth mile station; thence with said water-shed and county line N. 60° E. 1 ch. 50 lks.; thence N. 87° E. 6 ch.; thence S. 46° E. 5 ch. 87 lks.; thence N. 53° E. 3 ch. 50 lks.; thence N. 66° E. 5 ch. 25 lks.; thence N. 34° E. 4 ch. 50 lks.; thence N. 5° E. 4 chs.; thence N. 18° E. 2 chs.; thence N. 60° E. 1 ch. 88 lks.; thence N. 7° W. 4 ch. 50 lks. to $\frac{1}{4}$ mile station; thence N. 7° W. 4 chs. 50 lks.; thence N. 22° W. 8 chs. 50 lks.; thence N. [north] 8 chs.; thence N. 35° E. 9 ch. 65 lks.; thence N. 8° E. 9 ch. 35 lks. to a mound, fifth mile station. Thence with said water-shed and Swaine Co. line N. 8° W. 1 ch.; N. 72° E. 3 ch. 50 lks.; thence N. 83° E. 3 ch. 50 lks.; thence E. 8 ch. 58 lks. to a buckeye 15 in. dia., "I. B.;" thence N. 13° E. 7 ch. 50 lks.; thence N. 48° E. 5 ch.; thence N. 37° E. 10 chs. 92 lks. to a post in mound $\frac{5}{4}$ mile station. Thence with said water-shed and line N. 37° E. 3 ch. 12 lks.; thence N. 30° E. 2 ch. 50 lks.; thence N. 9° W. 4 ch. 50 lks.; thence N. 20° W. 7 ch. 40 lks. to beach 11 in. dia., "I. B.;" thence N. 34° W. 11 chs. 22 lks.; thence N. 15° E. 9 ch.; thence N. 55° W. 2 ch. 26 lks. to a mound 6th mile station. Thence same course 4. ch. 87 lks.; thence N. 3° E. 5 ch.; thence N. 11° E. 3 chs.; thence N. 2 ch.,

thence N. 46° W. 2 ch.; thence N. 21° W. 3 ch. 50 lks.; thence N. 8° E. 3 chs. to a sugar tree 16 in. in dia., "I. B."; thence N. 25° W. 4 ch. 50 lks.; thence N. 44° W. 4 ch.; thence N. 86° W. 3 ch. 45 lks.; thence N. 56° W. 12 ch. 68 lks. to top of Little Balsam Mountain; thence N. 30° E. 15 ch. 66 lks.; thence N. 1° W. 6 ch. 20 lks.; thence N. 32° W. 8 ch. 92 lks.; thence N. 44° W. 1 ch. 22 lks. to a mound, 7th mile station; thence with water-shed of Straight and Ravens Fork and Bunch's Creek and Swaine County line, N. 37° W. 2 ch.; thence N. 52° W. 2 ch. 66 lks. to a balsam 19 in. dia., "I. B."; thence N. 22° W. 7 ch. 50 lks.; thence N. 34° W. 4 ch. 15 lks.; thence N. 12° W. 8 ch. 37 lks. to a birch 14 in. dia., "I. B."; thence N. 24° E. 4 chs.; thence N. 3° E. 3 ch. 30 lks. to a balsam 20 in. dia., "I. B."; thence N. 20° W. 3 ch. 70 lks.; thence N. 39° W. 2 ch. 50 lks.; thence N. 26° W. 1 ch. 82 lks.; thence N. 37° W. 9 ch.; 25 lks.; thence N. 16° W. 3 ch. 90 lks.; thence N. 59° W. 7 ch. 50 lks. to a birch 9 in. dia., "I. B."; thence N. 84° W. 3 ch.; thence S. 79° W. 7 ch. 30 lks.; thence N. 55° W. 3 ch. 65 lks.; thence N. 71° W. 3 ch.; thence N. 45° W. 2 ch. 40 lks. to a post in mound, 8th mile station; thence with Swaine Co. line N. 45° W. 1 ch.; thence N. 67° W. 1 ch. 25 lks.; thence N. 89° W. 8 ch. 50 lks.; thence N. 61° W. 3 ch. 50 lks.; thence N. 52° W. 1 ch. 65 lks. to a birch 19 in. dia., "I. B."; thence N. 68° W. 1 ch. 50 lks.; thence N. 55° W. 7 ch. 40 lks.; thence N. 65° W. 6 ch. 30 lks.; thence N. 44° W. 6 ch. 30 lks.; thence N. 61° W. 2 ch. 60 lks.; thence on Swaine Co. line on the water-shed of Ravens Fork of the Ocona Lufta and Catalooch Rivers N. 61° W. 90 lks.; thence N. 39° W. 2 ch. 44 lks.; thence N. 69° W. 1 ch. 68 lks. to a birch 30 in. dia., "I. B."; thence N. 52° W. 3 ch. 15 lks.; thence N. 81° W. 5 ch.; thence N. 56° W. 3 ch. 17 lks.; thence N. 31° W. 2 ch. 35 lks.; thence N. 49° W. 2 ch. 75 lks.; thence N. 71° W. 1 ch.; thence N. 30° W. 2 ch. 50 lks.; thence N. 2° W. 2 ch. 82 lks. to a birch, "I. B."; thence N. 2° W. 1 ch. 50 lks.; thence N. 11° W. 2 ch. 25 lks.; thence N. 19° E. 1 ch.; thence N. 2° W. 7 ch. 49 lks. to a post in mound, 9th mile station; thence with said water-shed N. 10° E. 5 ch. 25 lks.; thence N. 54° W. 2 ch. 50 lks.; thence N. 40° W. 3 ch. 50 lks.; thence N. 28° W. 4 ch. 68 lks. to a birch 14 in. dia., "I. B."; thence N. 6° W. 2 ch. 50 lks.; thence N. 2° E. 3 ch.; thence N. 20° E. 1 ch. 50 lks.; thence N. 6° E. 3 ch. 75 lks.; thence N. 17° E. 4 ch. 25 lks.; thence N. 7° E. 2 ch. 50 lks.; thence N. 2 ch. 50 lks.; thence N. 6° E. 1 ch.; thence N. 19° E. 6 ch. 82 lks.; thence N. 57° W. 1 ch. 50 lks.; thence N. 35° W. 1 ch. 17 lks.; thence N. 45° W. 1 ch. 10 lks. to a double birch 60 in. dia., "I. B."; thence N. 49° W. 1 ch. 63 lks.; thence N. 35° W. 1 ch. 25 lks.; thence N. 46° W. 4 ch.; thence N. 32° W. 7 ch. 85 lks. to a buckeye 10 in. dia., "I. B."; thence N. 61° W. 1 ch. 50 lks.; thence N. 50° E. 1 ch. 50 lks.; thence N. 35° E. 3 ch. 72 lks.; thence N. 27° E. 4 ch. 37 lks.; thence N. 11° E. 1 ch. 50 lks.; thence N. 25° E. 3 ch. 98 lks.; thence N. 39° E. 1 ch. 18 lks. to a post in a mound, 10th mile post; thence with said county line and water-shed N. 33° E. 7 ch. 50 lks.; thence N. 10° E. 2 ch.; thence N. 18° W. 5 ch. 50 lks.; thence N. 17° E. 2 ch. 25 lks. to a balsam 8 in. dia., "I. B."; thence N. 17° E. 17 ch. 92 lks.; thence N. 43° E. 3 ch. 10 lks.; thence N. 61° E. 1 ch. 73 lks.; thence N. 56° E. 1 ch. 64 lks.; thence N. 73° E. 3 ch. 25 lks.; thence N. 44° E. 7 ch.; thence N. 69° E. 2 ch. 50 lks.; thence N. 41° E. 2 ch. 50 lks.; thence N. 29° E. 3 ch. 42 lks.; thence N. 20° E. 4 ch. 30 lks. to a birch 14 in. in dia., "I. B."; thence N. 9° E. 2 ch.; thence N. 28° E. 2 chs.; thence N. 11° E. 5 ch. 35 lks.; thence N. 51° W. 2 ch. 50 lks.; thence N. 76° W. 1 ch. 25 lks.; thence N. 68° W. 1 ch. 10 lks.; thence N. 54° W. 1 ch. 19 lks. to a post in mound, 11th mile station; thence with said water-shed and county line N. 66° W. 3 ch. 50 lks.; thence N. 46° W. 6 ch. 78 lks.; [thence] N. 39° W. 6 ch. 32 lks.; thence N. 48° W. 3 ch. 25 lks.; thence N. 27° W. 5 ch. 50 lks.; thence N. 33° W. 4 ch. 12 lks.; thence N. 17° W. 6 ch. 6 lks.; thence N. 2° W. 3 ch.; thence N. 16° E. 1 ch. 37 lks.; thence N. 10° E. 4 ch.; thence N. 3° E. 3 ch.; thence N. 19° W. 2 ch. 50 lks.; thence N. 6° E. 3 ch.; thence N. 21° E. 2 ch. 75 lks.; thence N. 8° E. 3 ch. 50 lks.; thence N. 22° E. 1 ch. 67 lks.; thence N. 45° E. 4 ch. 68 lks.; thence N. 40° E. 5 ch. 65 lks.; thence N. 64° E. ch. 50 lks.; thence N. 31° E. 5 ch. 90 lks.; thence N. 25° E. 85 lks. to a post in mound, 12th mile station; thence with said county line and the water-shed of the Ravens Fork and Catalooch Rivers, N. 25° E. 1 ch. 25 lks.; thence N. 45° E. 4 ch. 15 lks.; thence N. 39° E. 1 ch.; thence N. 9° W. 2 ch. 50 lks.; thence N. 43° E. 5 ch.; thence N. 23° W. 9 ch. 10 lks.; thence N. 29° W. 3 ch. 50 lks.; thence 14° W. 2 ch. 45 lks. to a chestnut 16 in. dia., "I. B."; thence N. 5° W. 3 chs. 75 lks.; thence N. 24° W. 1 ch. 81 lks.; thence N. 21° E. 3 ch. 66 lks.; thence N. 11° W. 1 ch. 83 lks.; thence N. 11° W. 1 ch. 75 lks.; thence N. 45° W. 2 ch.; thence N. 51° W. 5 ch.; thence N. 42° W. 3 ch.; thence N. 52° W. 2 ch. 33 lks.; thence N. 15° E. 96 lks.; thence N. 5° W. 4 ch. 30 lks.; thence N. 71° W. 1 ch. 90 lks.; thence N. 58° W. 2 ch. 75 lks.; thence N. 47° W. 7 ch. 80 lks.; thence N. 29° W. 4 ch. 83 lks.; thence N. 37° W. 3 ch. 38 lks., to a post in mound, 13th mile station; thence running Swaine County line, and water-shed of the Ocona Lufta and Catalooch Rivers, N. 37° W. 1 ch.; thence N. 68° W. 95 lks.; N. 80° W. 90 lks.; N. 73° W. 1 ch. 90 lks.; N. 51° W. 1 ch. 70 lks.; N. 40½° W. 8 ch. 25 lks.; thence N. 65° W. 1 ch. 90 lks.; thence N. 55° W. 2 ch. 55 lks., to a chestnut 11 in. dia., "I. B."; thence N. 47° W. 3 ch. 75 lks.; thence N. 52° W. 9 ch. 75 lks.; thence N. 71° W. 7 ch. 35 lks.; thence N. 82° W. 4 ch. 16 lks.; thence S. 73° W. 4 ch. 18 lks.; thence S. 47° W. 5 ch. 50 lks.; thence S. 74° W. 4 ch. 33 lks., to a white oak 23 in. dia., "I. B."; thence S. 52° W. 2 ch. 80 lks.; thence N. 81° W. 3 ch. 64 lks.; thence N. 70° W. 7 ch. 50 lks.; thence N. 81° W. 7 ch. 89 lks., to a post in mound, 14th mile station,

running thence with water-shed of Straight Fork and Catalooch River and Swaine County line, N. 81° W. 2 ch. 25 lks.; thence S. 81° W. 2 ch. 50 lks.; thence N. 89° W. 8 ch. 50 lks.; thence N. 31° W. 2 ch.; thence N. 23° W. 2 ch. 68 lks.; thence N. 60° W. 5 ch. 14 lks. to a beach 13 in. dia., "I. B."; thence N. 14° W. 2 ch. 43 lks.; thence N. 18° W. 6 ch. 50 lks.; thence N. 6° E. 2 ch. 80 lks.; thence N. 8° E. 4 ch. 25 lks.; thence N. 22° W. 95 lks.; thence N. 22° W. 4 ch.; thence N. 17° E. 3 ch. 50 links; N. 17° W. 2 ch.; N. 28° W. 3 ch. 50 lks.; N. 11° W. 2 ch. 25 lks.; N. 32° W. 4 ch. 40 lks.; N. 8° E. 2 ch.; N. 24° E. 2 ch. 55 lks. to a beech 7 in. dia., "I. B." Thence N. 28° E. 4 ch.; N. 43° E. 3 ch.; N. 51° E. 6 ch. 25 lks.; N. 66° E. 2 ch. 16 lks.; N. 60° E. 39 lks. to a post in a mound, 15th mile station; running thence with said county line and water-shed N. 60° E. 2 ch.; N. 53° E. 2 ch.; N. 25° E. 3 ch.; N. 37° E. 5 ch. 50 lks.; N. 55° E. 6 ch. 50 lks.; N. 43° E. 3 ch. 75 lks.; N. 24° E. 5 ch. 50 lks.; N. 5° W. 8 ch. 50 lks.; N. 8° E. 4 ch. 25 lks.; N. 24° E. 9 ch. 50 lks.; N. 9° E. 2 ch. 50 lks.; N. 5° E. 9 ch. 8 links; N. 32° E. 4 ch.; N. 57° E. 2 ch. 40 lks. to a balsam 12 in. dia., "I. B." Thence N. 70° E. 2 ch.; N. 51° E. 4 ch. 35 lks.; N. 20° E. 4 ch.; N. 43° E. 2 ch. 17 lks. to a post in mound, 16th mile station; running thence with Swaine County line, N. 44° E. 2 ch.; N. 76° E. 4 ch. 20 lks.; S. 87° E. 1 ch. 75 lks.; N. 36° E. 7 ch. 65 lks. to a balsam 33 in. dia., "I. B."; N. 44° E. 5 ch. 50 lks.; N. 18° E. 4 ch. 18 lks.; N. 39° E. 14 ch. 72 lks.; N. 44° E. 11 ch. 39 lks.; N. 20° E. 9 ch. 50 lks.; N. 45° W. 1 ch. to a birch 15 in. dia., "I. B." Thence N. 71° W. 2 ch. 50 lks.; S. 76° W. 2 ch. 50 lks.; N. 75° W. 2 ch. 65 lks.; N. 61° W. 1 ch. 50 lks.; N. 50° W. 1 ch. 50 lks.; N. 35° W. 6 ch. 85 lks.; N. 73° W. 61 lks. to a post in mound, 17th mile station; running thence with the water-shed of Ocona Lufta River and Big Creek, Swaine County line; N. 73° W. 1 ch.; W. 2 ch. 50 lks.; N. 75° W. 5 ch. to a balsam 32 in. dia., "I. B."; thence S. 75° W. 75 lks.; N. 63° W. 3 ch. 50 lks.; S. 89° W. 1 ch. 55 lks.; N. 78° W. 1 ch.; N. 62° W. 2 ch.; N. 56° W. 1 ch. 25 lks.; N. 43° W. 1 ch. 50 lks.; N. 50° W. 4 ch. 50 lks.; N. 10° W. 1 ch. 50 lks.; N. 19° W. 2 ch. 25 lks.; N. 8° W. 1 ch.; N. 19° W. 1 ch.; N. 7° W. 3 ch.; N. 5° E. 75 lks.; N. 5° W. 4 ch. 95 lks.; N. 35° W. 4 ch. 37 lks.; S. 86° W. 2 ch. to a balsam, 20 in. dia., "I. B." Thence S. 52° W. 2 ch.; S. 67° W. 1 ch. 75 lks.; S. 86° W. 5 ch.; N. 67° W. 2 ch.; N. 43° W. 2 ch. 75 lks.; N. 73° W. 2 ch. 50 lks.; N. 57° W. 1 ch. 50 lks.; N. 39° W. 1 ch. 10 lks.; N. 47° W. 4 ch.; N. 61° W. 2 ch. 50 lks.; N. 86° W. 2 ch.; N. 55° W. 4 ch. 50 lks.; N. 40° W. 2 ch. 3 lks. to a post in a mound, 18th mile station; running thence with said water-shed and county line N. 37° W. 1 ch.; N. 56° W. 2 ch. to a balsam 24 in. dia., "I. B." Thence N. 37° W. 2 ch. 75 lks.; S. 88° W. 1 ch. 70 lks.; S. 64° W. 8 ch. 50 lks.; S. 41° W. 1 ch. 60 lks.; S. 52° W. 2 ch. 12 lks.; S. 65° W. 6 ch.; N. 53° W. 5 ch. 67 lks.; N. 72° W. 8 ch. 66 lks.; N. 32° W. 1 ch.; N. 42° W. 6 ch. 85 lks.; N. 53° W. 2 ch.; N. 33° W. 3 ch.; N. 15° W. 3 ch. 64 lks.; N. 38° W. 1 ch. 50 lks.; N. 25° W. 2 ch. 30 lks.; N. 3° W. 1 ch. 50 lks.; N. 14° W. 7 ch.; N. 2 ch.; N. 52° W. 1 ch. 50 lks.; N. 32° W. 1 ch. 50 lks.; N. 43° W. 3 ch. 25 lks.; N. 75° W. 2 ch. 96 lks. to a post in a mound, 19th mile station; running thence with said county line and water-shed of Ravens Fork and Big Creek; N. 75° W. 3 ch.; N. 48° W. 1 ch.; N. 32° W. 1 ch. 75 lks.; N. 54° W. 75 lks.; N. 39° W. 3 ch.; N. 24° W. 1 ch.; N. 14° W. 2 ch. 80 lks.; N. 36° W. 2 ch. 25 lks.; N. 20° W. 1 ch. 50 lks.; N. 23° W. 2 ch.; N. 34° W. 2 ch. 85 lks.; N. 55° W. 1 ch. 25 lks.; N. 36° W. 1 ch. 50 lks.; N. 55° W. 2 ch. 90 lks. to a balsam 14 in. dia., "I. B." Thence N. 45° W. 2 ch. 68 lks.; N. 21° W. 75 lks.; N. 15° W. 6 ch.; N. 37° W. 1 ch. 35 lks.; N. 30° W. 2 ch. 17 lks.; S. 76° W. 4 ch.; S. 84° W. 3 ch. 50 lks.; S. 73° W. 1 ch. 15 lks.; N. 76° W. 1 ch. 50 lks.; N. 68° W. 3 ch. 50 lks.; S. 83° W. 3 ch. 25 lks. to a balsam 18 in. dia., "I. B." Thence S. 86° W. 2 ch.; N. 85° W. 2 ch.; W. 1 ch.; N. 79° W. 2 ch. 10 lks.; N. 75° W. 2 ch. 50 lks.; N. 58° W. 3 ch. 50 lks.; N. 48° W. 1 ch. 37 lks.; S. 81° W. 2 ch.; S. 72° W. 1 ch. 25 lks.; S. 87° W. 4 ch.; S. 78° W. 88 lks. to a post in mound, 20th mile station. Running thence with said water-shed and county-line variation 2° 25' E.; N. 71° W. 1 ch. 75 lks.; N. 88° W. 50 lks.; N. 72° W. 3 ch. 50 lks.; S. 78° W. 1 ch. 87 lks.; N. 70° W. 2 ch.; N. 79° W. 2 ch. 50 lks.; S. 62° W. 2 ch. 75 lks.; S. 72° W. 3 ch. 62 lks.; S. 78° W. 2 ch. 75 lks.; N. 83° W. 2 ch. 15 lks.; S. 76° W. 2 ch.; N. 62° W. 1 ch. 75 lks.; W. 3 ch.; N. 67° W. 1 ch. 25 lks.; N. 75° W. 4 ch.; N. 84° W. 1 ch. 58 lks. to a balsam 14 in. dia., "I. B." Thence N. 60° W. 2 ch. 50 lks.; N. 71° W. 3 ch. 53 lks.; S. 81° W. 1 ch. 75 lks.; S. 60° W. 2 ch. 41 lks.; S. 80° W. 3 ch. 50 lks.; S. 72° W. 2 ch. 25 lks.; S. 89° W. 2 ch.; N. 80° W. 1 ch. 90 lks. to a balsam 15 in. dia., "I. B."; thence N. 64° W. 2 ch. 50 lks.; N. 53° W. 2 ch. 50 lks.; N. 58° W. 2 ch. 25 lks.; N. 75° W. 4 ch.; S. 87° W. 2 ch. 50 lks.; N. 72° W. 1 ch. 55 lks.; N. 82° W. 1 ch. 50 lks.; S. 82° W. 2 ch. 15 lks.; N. 76° W. 1 ch.; N. 67° W. 3 ch. 50 lks.; S. 58° W. 29 lks. to a post, 21st mile station. Running thence with said water-shed and county line S. 58° W. 2 ch.; S. 71° W. 4 ch. 60 lks.; N. 81° W. 1 ch.; S. 86° W. 3 ch. 25 lks.; N. 77° W. 1 ch. 50 lks.; S. 85° W. 1 ch. 90 lks.; S. 72° W. 1 ch. 50 lks.; W. 3 ch. 60 lks.; S. 37° W. 1 ch. 45 lks.; S. 70° W. 3 ch. 40 lks.; S. 78° W. 2 ch. 70 lks.; S. 60° W. 1 ch.; S. 50° W. 1 ch. 40 lks.; S. 70° W. 3 ch. 90 lks. to a balsam 22 in. dia., "I. B."; thence S. 50° W. 1 ch. 70 lks.; N. 86° W. 1 ch. 40 lks.; N. 23° W. 65 lks.; N. 32° W. 2 ch. 75 lks.; N. 53° W. 30 lks.; N. 59° W. 3 ch. 50 lks.; N. 48° W. 2 ch. 75 lks.; N. 53° W. 2 ch.; S. 89° W. 6 ch. 50 lks.; N. 79° W. 1 ch. 25 lks. to a balsam 30 in. dia., "I. B." Thence W. 1 ch. 40 lks.; S. 75° W. 1 ch.; W. 4 ch. 25 lks.; S. 82°

W. 4 ch. 50 lks. to the top of Smokey or Iron Mountain, the line between the States of Tennessee and North Carolina. Thence with said line S. 41° W. 5 ch.; S. 74° W. 5 ch. 14 lks.; S. 37° W. 2 ch. 71 lks. to a post in mound, 22nd mile station. Running thence with said State line S. 55° W. 3 ch.; S. 41° W. 3 ch. 5 lks. to a balsam 32 in. dia., "I. B."; thence S. 25° W. 5 ch.; S. 14° W. 75 lks.; S. 7° W. 1 ch.; 50 lks.; S. 5° E. 1 ch. 50 lks.; S. 21° W. 2 ch. 50 lks.; S. 29° W. 2 ch. 25 lks.; S. 20° W. 1 ch. 75 lks.; S. 35° W. 3 ch.; S. 43° W. 2 ch.; S. 60° W. 1 ch. 50 lks.; S. 78° W. 3 ch. 50 lks.; S. 68° W. 2 ch. 75 lks.; S. 50° W. 1 ch. 75 lks.; S. 39° W. 4 ch. 20 lks.; S. 60° W. 7 ch. 50 lks.; N. 1 ch. 51 lks.; N. 82° W. 3 ch. 35 lks.; N. 72° W. 2 ch. 50 lks.; N. 85° W. 2 ch. 25 lks.; S. 72° W. 10 ch. 5 lks. to a balsam 30 in. dia. "I. B."; S. 42° W. 3 ch. 75 lks.; S. 64° W. 2 ch. 75 lks.; S. 47° W. 4 ch. 75 lks.; S. 36° W. 1 ch. 59 lks. to a post in mound, 23d mile station. Running thence with said State line S. 69° W. 2 ch. 90 lks.; S. 1° W. 5 ch. 25 lks.; S. 15° E. 1 ch. 35 lks.; S. 10 ch. 50 lks.; S. 25° W. 1 ch. 40 lks.; S. 40° W. 1 ch. 25 lks.; S. 56° W. 1 ch. 25 lks.; S. 67° W. 1 ch. 25 lks.; S. 42° W. 2 ch. 75 lks.; S. 10° E. 1 ch. 75 lks.; S. 11° W. 7 chs.; S. 44° W. 85 lks.; S. 22° W. 2 ch. 50 lks.; S. 22° W. 1 ch. 50 lks., variation, 2° 55' E.; South 22° W. 2 ch.; S. 56° W. ch. 75 lks.; S. 27° W. 2 ch.; S. 75° W. 10 ch. 70 lks.; S. 84° W. 4 ch. 50 lks.; S. 63° W. 5 ch. 85 lks.; S. 76° W. 2 ch.; S. 85° W. 4 ch. 40 lks. to a peruvian 8 in. in dia., "I. B." Thence S. 75° W. 4 ch.; S. 18° W. 30 lks. to a post on mound, 24th mile station. Running thence with said State line water-shed of Tennessee and North Carolina, and Swaine County line, S. 23° W. 4 ch. 4 lks. to a balsam 26 in. in dia., "I. B." Thence S. 29° W. 1 ch. 75 lks.; S. 9° W. 1 ch. 50 lks.; S. 21° W. 3 ch.; S. 9° W. 2 ch. 50 lks.; S. 32° W. 3 ch.; S. 52° W. 2 ch.; S. 46° W. 3 ch.; S. 76° W. 1 ch. 50 lks.; S. 88° W. 2 ch. 50 lks.; S. 62° W. 75 lks.; S. 85° W. 5 ch.; N. 85° W. 3 ch. 35 lks.; N. 68° W. 1 ch. 15 lks.; S. 86° W. 2 ch. 70 lks. to a peruvian 12 in. in dia., "I. B." Thence N. 78° W. 2 ch. 26 lks.; S. 80° W. 1 ch. 50 lks.; S. 45° W. 3 ch.; S. 60° W. 4 ch. 20 lks.; S. 45° W. 2 ch. 50 lks.; S. 35° W. 2 ch. 50 lks.; S. 64° W. 2 ch. 50 lks.; N. 88° W. 3 ch.; S. 12° E. 14 ch. 50 lks.; S. 4° W. 2 ch.; S. 4° E. 4 ch. 30 lks. to a post in a mound, 25th mile station. Running thence with said State line and county line, variation 2° 25' E.; S. 6° E. 2 ch. 50 lks.; S. 14° W. 5 ch. 18 lks.; S. 2° E. 2 ch. 15 lks.; S. 15° W. 4 ch.; S. 11° E. 1 ch. 25 lks.; S. 18° E. 2 ch. 30 lks.; S. 44° W. 2 ch. 45 lks.; S. 57° W. 2 ch.; S. 49° W. 1 ch. 50 lks.; S. 72° W. 2 ch. 50 lks.; S. 55° W. 1 ch. 95 lks.; S. 41° W. 2 ch. 50 lks.; S. 16° E. 4 ch. 50 lks.; S. 2° E. 1 ch.; S. 10° W. 3 ch.; S. 31° E. 1 ch. 97 lks.; S. 10° W. 1 ch. 75 lks.; S. 20° E. 1 ch. 50 lks.; S. 5° E. 3 ch.; S. 34° W. 50 lks.; S. 42° W. 5 ch.; S. 14° W. 1 ch. 75 lks. to a balsam 26 in. in dia., "I. B."; thence S. 45° W. 2 ch. 50 lks.; S. 74° W. 1 ch. 50 lks.; S. 13° W. 3 ch. 75 lks.; S. 35° W. 2 ch. 50 lks.; S. 47° W. 2 ch.; S. 29° W. 1 ch.; S. 40° W. 2 ch. 25 lks.; S. 50° W. 2 ch.; S. 85° W. 5 ch. 50 lks. to a balsam 10 in. in dia., "I. B." Thence S. 5° E. 2 ch. 75 lks. to a post in a mound, 26th mile station. Running thence with said State and county line S. 9° W. 1 ch. 51 lks.; S. 42° W. 1 ch. 50 lks.; S. 74° W. 3 ch.; N. 76° W. 2 ch. 75 lks.; S. 74° W. 2 ch. 50 lks., variation 2° 25' E.; S. 74° W. 4 ch.; S. 53° W. 1 ch. 25 lks.; S. 62° W. 1 ch.; W. 2 ch. 40 lks. to a birch 12 in. in dia., "I. B." Thence S. 87° W. 2 ch. 25 lks.; S. 60° W. 1 ch. 75 lks.; S. 27° W. 1 ch. 75 lks.; S. 41° W. 3 ch. 50 lks.; S. 70° W. 1 ch.; S. 74° W. 1 ch. 50 lks.; S. 86° W. 2 ch.; S. 73° W. 2 ch. 50 lks.; S. 82° W. 1 ch.; N. 80° W. 2 ch. 85 lks.; S. 58° W. 1 ch. 25 lks.; S. 80° W. 2 ch. 10 lks.; N. 70° W. 1 ch.; N. 65° W. 2 ch. 50 lks. to a balsam 22 in. in dia., "I. B." Thence N. 50° W. 75 lks.; N. 62° W. 7 ch. 33 lks.; S. 33° W. 2 ch.; S. 37° W. 1 ch. 50 lks.; S. 1° W. 2 ch. 25 lks.; S. 13° W. 4 ch.; S. 45° W. 1 ch. 50 lks.; S. 58° W. 1 ch. 25 lks.; thence leaving State line and running down Hugh's Ridge, S. 1° W. 1 ch. 25 lks.; S. 30° E. 3 ch.; S. 12° E. 3 ch.; S. 41° E. 1 ch. 50 lks.; S. 28° E. 1 ch.; S. 22° E. 2 ch. 82 lks. to a post in a mound, 27th mile station. Running thence down Hugh's Ridge and water-shed of Ravens Fork, and Bradley's Fork of the Ocona Lufta River; S. 19° E. 2 ch.; S. 11° W. 5 ch. 75 lks.; S. 4 ch. 50 lks.; S. 16° E. 1 ch.; S. 52° E. 1 ch. 8 lks.; S. 37° E. 1 ch. 50 lks.; S. 49° E. 1 ch. 25 lks.; S. 38° E. 3 ch. 25 lks.; S. 42° E. 3 ch. 50 lks.; S. 11° W. 1 ch. 25 lks.; S. 3 ch.; S. 7° W. 1 ch. 65 lks. to a balsam 32 in. in dia., "I. B." Thence S. 1 ch. 50 lks.; S. 9° E. 6 ch.; S. 19° W. 2 ch. 77 lks.; S. 45° W. 4 ch. 65 lks.; S. 11° E. 2 ch. 50 lks.; S. 30° E. 1 ch. 25 lks.; S. 48° E. 2 ch.; S. 35° E. 2 ch.; S. 25° E. 1 ch. 50 lks.; S. 43° E. 1 ch. 75 lks. to a balsam 26 in. in dia., "I. B." S. 39° E. 1 ch. 25 lks.; S. 25° E. 9 ch. 40 lks.; S. 9° E. 1 ch. 50 lks.; S. 15° E. 1 ch. 50 lks.; S. 8° E. 1 ch.; S. 17° E. 1 ch.; S. 4° E. 3 ch.; S. 12° E. 2 ch. 50 lks.; S. 2° E. 3 ch. 20 lks. to a post in a mound, 28th mile station. Running thence with said ridge and water-shed S. 2° E. 1 ch. 25 lks.; S. 24° E. 4 ch. 75 lks.; S. 18° W. 6 ch. 95 lks.; S. 47° W. 3 ch.; S. 58° W. 2 ch. 50 lks.; S. 6° E. 1 ch. 50 lks.; S. 25° E. 4 ch. 50 lks.; S. 21° E. 5 ch. 30 lks.; S. 22° E. 6 ch. 75 lks.; S. 2° E. 3 ch. 25 lks.; S. 17° E. 5 ch. 25 lks. to a chestnut 19 in. in dia., "I. B." Thence S. 37° E. 5 ch. 50 lks.; S. 25° E. 3 ch. 35 lks.; S. 11° W. 3 ch.; S. 3° E. 5 ch.; S. 30° W. 2 ch.; S. 41° W. 5 ch. 50 lks. to a monument of stones, on the edge of the old field. Thence S. 30° E. 3 ch. 50 lks.; S. 21° E. 5 ch. 25 lks.; S. 39° E. 1 ch. 90 lks. to a post in a mound 29th mile station. Running thence with

said ridge and water-shed S. 34° E. 7 ch. 25 lks.; S. 12° E. 1 ch. 50 lks.; S. 27° E. 9 ch.; S. 13° E. 6 ch. 25 lks.; S. 30° E. 10 ch.; S. 26° E. 5 ch.; S. 45° E. 1 ch.; S. 38° E. 7 ch.; S. 58° E. 4 ch. 70 lks.; S. 48° E. 6 ch. 20 lks. to a chestnut 14 in. dia., "I. B." S. 43° E. 5 ch. 25 lks.; S. 36° E. 3 ch. 75 lks.; E. 4 ch. 25 lks.; N. 83° E. 3 ch.; S. 82° E. 5 ch. 75 lks. to a post in a mound, 30th mile station. Running thence with said ridge and water-shed, variation 2° 30' E.; S. 83° E. 2 ch. 50 links.; S. 62° E. 2 ch. 75 lks. to a red oak 36 in. dia. "I. B." Thence S. 14° W. 4 ch. 50 links; thence S. 28° E. 3 ch. 50 lks.; S. 46° E. 5 ch.; S. 30° E. 6 ch.; S. 69° E. 6 ch. 33 lks.; N. 76° E. 3 ch. 60 lks.; S. 49° E. 3 ch. 50 lks.; S. 58° E. 2 ch. 32 lks.; S. 74° E. 10 ch.; S. 77° E. 8 ch., to four chestnuts from one root 12 in. dia., "I. B." Thence S. 87° E. 5 ch. 75 lks.; N. 77° E. 1 ch. 50 lks.; S. 59° E. 7 ch. 25 lks.; S. 48° E. 4 ch.; S. 15° E. 2 ch.; S. 60° E. 1 ch. 50 lks. to a post in a mound, 31st mile station. Running thence with said ridge and water-shed, S. 60° E. 4 ch. 50 lks.; S. 42° E. 4 ch. 25 lks.; S. 37° E. 4 ch. 25 lks.; S. 41° E. 5 ch.; S. 37° W. 5 ch.; S. 14° W. 4 ch. 78 lks.; S. 29° W. 3 ch. 85 lks.; S. 24° E. 1 ch. 25 lks.; E. 89 lks.; S. 59° E. 1 ch. 75 lks.; S. 34° E. 1 ch. 75 lks.; S. 58° E. 2 ch.; S. 44° E. 73 lks.; S. 62° E. 2 ch. 75 lks.; S. 42° E. 4 ch. 50 lks.; S. 54° E. 1 ch.; S. 27° E. 10 ch. 75 lks.; S. 34° W. 2 ch. 35 lks.; S. 29° W. 3 ch. 50 lks.; S. 57° W. 2 ch. 75 lks.; S. 18° W. 7 ch. 75 lks.; S. 7° W. 4 ch. 65 lks. to a post in a mound, 32nd mile station. Running thence with said ridge and water-shed S. 2 ch. 75 lks.; S. 33° W. 4 ch.; S. 40° W. 4 ch. 75 lks.; S. 36° W. 3 ch.; S. 56° W. 2 ch. 25 lks.; S. 19° W. 4 ch. 25 lks.; S. 36° W. 2 ch.; S. 48° W. 2 ch.; S. 15° W. 8 ch. 65 lks.; S. 20° W. 2 ch. 75 lks.; S. 51° W. 2 ch. 50 lks.; S. 27° W. 1 ch. 10 lks.; S. 27° W. 4 ch. 10 lks. to a chestnut 32 in. in dia., "I. B." Thence S. 3° E. 3 ch.; S. 39° W. 5 ch. 50 lks.; S. 18° W. 2 ch. 75 lks.; S. 40° W. 6 ch. 50 lks.; S. 76° W. 6 ch. 40 lks.; S. 31° W. 5 ch. 50 lks.; S. 71° W. 6 ch. 25 lks. to a post in a mound 33d mile station. Running thence with said ridge and water-shed S. 30° E. 6 ch.; S. 36° E. 2 ch. 25 lks.; S. 23° E. 3 ch. 50 lks. to a white oak 10 in. dia., "I. B." Thence S. 45° E. 6 ch. 75 links.; thence S. 1° E. 6 ch. 25 lks.; S. 20° E. 3 ch. 30 lks.; S. 7° E. 3 ch. 30 lks.; S. 23° E. 8 ch. 95 lks.; S. 28° E. 2 ch. 75 lks.; S. 6° E. 6 ch. 75 lks.; S. 18° E. 8 ch. 25 lks.; S. 36° E. 1 ch. 75 lks.; S. 52° E. 2 ch.; S. 75° E. 7 ch. 95 lks.; S. 54° E. 5 ch. 75 lks.; S. 63° E. 2 ch. 50 lks. to a chestnut oak 31 in. dia., "I. B." Thence S. 58° E. 6 ch. 30 lks. to a post in a mound 34th mile station. Running thence with said ridge and water-shed S. 78° E. 5 ch. 75 lks.; S. 65° E. 4 ch. 75 lks.; S. 29° E. 1 ch. 25 lks.; S. 29° E. 1 ch. 25 lks.; S. 36° E. 4 ch.; S. 16° W. 3 ch.; S. 31° W. 3 ch. 75 lks.; S. 13° W. 2 ch.; S. 2° ch.; S. 14° W. 4 ch. 75 lks.; S. 8° E. 6 ch. to a chestnut 23 in. dia., "I. B." Thence S. 8° E. 1 ch.; S. 8° W. 1 ch. 75 lks.; S. 8° W. 1 ch. 50 lks.; S. 7° E. 3 ch. 25 lks.; S. 13° W. 5 ch.; S. 2° W. 2 ch. 75 lks.; S. 16° E. 4 ch.; S. 20° W. 3 ch. 75 lks.; S. 16° W. 2 ch. 50 lks.; S. 23° W. 5 ch. 25 lks.; S. 17° E. 2 ch. 25 lks.; S. 8° W. 3 ch.; S. 1° W. 3 ch.; S. 4° E. 2 ch. 75 lks.; S. 3° W. 1 ch. to a post in a mound, 35th mile station. Running thence with said ridge and water-shed S. 3° W. 1 ch. 25 lks.; S. 20° E. 2 ch. 75 lks.; S. 22° W. 5 ch.; S. 6° E. 3 ch. 50 lks.; S. 59° E. 4 ch.; S. 38° E. 2 ch. 50 lks.; S. 34° E. 2 ch. 50 lks.; S. 57° E. 2 ch. 60 lks.; S. 19° W. 4 ch.; S. 10° E. 5 ch. 50 lks.; S. 27° E. 2 ch. 50 lks.; S. 54° E. 3 ch. 90 lks.; S. 81° E. 3 ch. 25 lks., to a Spanish oak 21 in. dia., "I. B." Thence S. 15° W. 5 ch.; S. 57° W. 4 ch. 50 lks.; S. 49° W. 3 ch.; S. 25° W. 1 ch. 75 lks.; S. 3° E. 2 ch. 25 lks.; S. 43° E. 4 ch.; S. 24° E. 7 ch.; 90 lks.; S. 34° E. 2 ch. 75 lks.; S. 24° E. 3 ch. 75 lks.; S. 7° W. 1 ch. 85 lks., to a post in a mound, 36th mile station. Running thence with said ridge and water-shed S. 7° W. 1 ch. 75 lks.; S. 14° W. 4 ch. to a Spanish oak 14 in. dia., "I. B." Thence S. 25° W. 3 ch. 75 lks.; S. 15° W. 4 ch. 50 lks.; S. 11° E. 2 ch. 50 lks.; S. 15° W. 2 ch.; S. 4° W. 5 ch. 75 lks.; S. 3° E. 4 ch. 25 lks.; S. 41° W. 3 ch. 50 lks.; S. 52° W. 3 ch.; S. 35° W. 4 ch. 35 lks. to a white oak 22 in. dia., "I. B." Thence S. 11° W. 6 ch. 15 lks.; S. 31° W. 3 ch.; S. 61° W. 4 ch.; S. 23° W. 4 ch. 50 lks.; S. 59° W. 2 ch. 75 lks.; S. 15° W. 4 ch. 50 lks.; S. 31° W. 1 ch. 50 lks.; S. 54° W. 3 ch. S.; 48° W. 5 ch. 50 lks.; S. 37° W. 1 ch. 75 lks.; S. 60° W. 2 ch. 50 lks.; S. 48° W. 1 ch. 50 lks., to a post in a mound 37th mile station. Running thence with said ridge and water-shed S. 45° W. 1 ch. 50 lks.; S. 29° W. 3 ch.; S. 37° W. 2 ch.; S. 10° W. 1 ch.; S. 35° W. 5 ch. 75 lks.; S. 17° W. 3 ch.; S. 57° W. 1 ch. 50 lks.; S. 73° W. 2 ch. 25 lks.; S. 53° W. 3 ch.; S. 72° W. 4 ch.; S. 48° W. 2 ch. 75 lks.; S. 72° W. 3 ch. 10 lks., to a chestnut 20 in. dia., "I. B." Thence 85° W. 2 ch.; S. 52° W. 6 ch. 65 lks.; S. 39° W. 2 ch. 50 lks.; S. 9° W. 2 ch.; S. 26° W. 5 ch. 50 lks.; S. 30° W. 3 ch. 50 lks.; S. 50° W. 3 ch. 25 lks.; S. 16° W. 1 ch. 35 lks., to a post in the Widow Hugh's line, marked "I. B.," 10 poles from her northwest corner. Thence east with said line 18 ch. 90 lks. to a hickory 10 in. dia., "I. B." Widow Hugh's corner. Thence S. 10° W. 50 lks. to a post in a mound, 38th mile station. Running thence with Widow Hugh's line S. 10° W. 25 ch. 95 lks. to a post in Polly Hugh's line, "I. B." Thence east with said line 38 ch. 5 lks. to a post Widow Hugh's corner S. 15 ch. 95 lks. to a post in a mound, 39th mile station. Running thence with widow Hugh's line S. 40 chs. 50 lks. to a post, "I. B.," Widow Hugh's corner. Thence with her line W. 21 ch. 50 lks., S. 11 ch. 25 lks., crossing the Ocona Lufta River at 1 ch. 25 lks.; W. 6 ch. 75 lks. to a post in a mound, 40th mile station. Running thence with Mary Hugh's line W. 4 ch. to a white oak her corner "I. B.," and "M. H." Thence S. 15 ch.

15 lks. to a post in Wesley Enloes line. Thence with said line E. 25 ch. 10 lks. to a post marked "I. B." and "W. E." Thence S. 1° W. 34 ch. 25 lks. to a post "I. B." Wesley Enloes corner. Thence N. 70° W. 1 ch. 50 lks. to a post in a mound, 41st mile station. Running thence down a dividing ridge with Enloes line, in a line of Catolstah's private claim, N. 70° W. 1 ch.; S. 73° W. 1 ch. 50 lks.; N. 51° W. 3 ch.; S. 58° W. 4 ch. 25 lks.; N. 68° W. 2 ch. 50 lks.; N. 55° W. 2 ch. 25 lks.; N. 86° W. 4 ch.; N. 76° W. 3 ch. 25 lks.; S. 49° W. 1 ch. 75 lks.; S. 85° W. 1 ch.; N. 60° W. 2 ch. 50 lks.; N. 55° W. 4 ch. 35 lks.; S. 85° W. 2 ch.; N. 83° W. 1 ch. 50 lks.; S. 79° W. 1 ch. 50 lks.; S. 85° W. 3 ch.; N. 73° W. 2 ch. 75 lks.; N. 68° W. 2 ch. 75 lks. to a post in a branch "I. B." and "W. E." Thence down said branch as it meanders S. 37° W. 2 ch.; S. 34° W. 1 ch.; S. 1° W. 1 ch. 50 lks.; S. 12° W. 50 lks.; S. 30° W. 2 ch.; S. 38° W. 1 ch. 60 lks.; S. 15° W. 9 ch. 25 lks.; S. 52° W. 1 ch. 25 lks. to the center of Ocona Lufta River opposite the mouth of said branch. Thence down said river with its meanders S. 58° E. 5 ch.; S. 31° E. 3 ch. 50 lks.; S. 22° E. 7 ch. 15 lks. to 42d mile station. Running thence with the meanders of said river and Cotelstah's line, S. 22° E. 8 ch. 25 lks.; S. 79° W. 7 ch. 25 lks.; S. 25° W. 8 ch. 25 lks. to the corner of Flying Squirrel's claim. Thence S. 30° W. 10 ch.; S. 50° W. 2 ch. 50 lks.; S. 71° W. 3 ch. 75 lks.; S. 71° W. 1 ch. 25 lks.; N. 61° W. 15 ch.; N. 83° W. 16 ch. 50 lks.; S. 73° W. 7 ch. 25 lks. to the 43d mile station. Running thence with the meanders of said river and Flying Squirrel's line S. 73° W. 2 ch. 75 lks.; S. 63° W. 6 ch. 50 lks.; S. 73° W. 3 ch. 75 lks.; S. 20° W. 50 lks. Thence from the center of said river with Henry Monteith's line, variation 2° 30' E., W. 1 ch. 50 lks. to a large poplar, Monteith's corner. Thence with his line N. 8° W. 30 ch.; W. 1 ch. 65 lks.; W. 3 ch. 30 lks. to a post, "I. B." Thence S. 1° W. 30 ch. 5 lks. to a post in a mound, 44th mile station, in a line of the 524 acre survey known as the Holland old fields. Thence S. 1° W. 30 ch. 35 lks. to a post in the line of the Mingus survey and W. H. Thomas's purchase. Thence with said survey N. 46° W. 2 ch. 85 lks.; N. 31° W. 15 ch. 50 lks. to a red oak, original corner of said survey "I. B." Thence N. 65½° W. 35 ch. 30 lks. to a post in a mound, 45th mile station. Running thence with the said Mingus line N. 65½° W. 12 ch. 15 lks.; N. 85° W. 13 ch. 75 lks. to a post; thence S. 10 ch. 50 lks. to a large rock marked X, S. 70° E. 43 poles 60 lks. to a post in a mound on the closing line of said survey, 46th mile station. Running thence S. 70° E. 26 ch. 75 lks.; S. 1° W. 13 ch. 75 lks., to a stake in the line of the Holland survey, corner of the Bryson survey. Thence with the Bryson survey W. 39 ch. 50 lks., to a post in a mound, 47th mile station. Thence with the line of said survey and of a 640 acre entry made by W. H. Thomas, W. 1 ch., to a post in the line of said 640 acre survey. Thence N. 40° W. 79 ch., to a post in a mound, 48th mile station. Running thence with the line of said 640 acre survey and water-shed of Mingus and Adams Creeks. Variation 2° 30' E.; N. 40° W. 22 ch. 50 lks., to a white oak 24 in. in dia., "I. B.," the northeast corner of said survey. Thence leaving said survey with the water-shed of said creeks, N. 31° W. 6 ch. 75 lks.; N. 46° W. 3 ch.; N. 36° W. 3 ch.; S. 86° W. 2 ch. 27 lks.; N. 83° W. 3 ch. 50 lks.; N. 63° W. 5 ch.; N. 89° W. 2 ch. 25 lks.; N. 44° W. 2 ch. 5 lks.; S. 66° W. 4 ch. 50 lks.; N. 69° W. 6 ch. 30 lks., to a white oak 18 in. dia., "I. B." Thence S. 87° W. 3 ch.; S. 79° W. 3 ch. 50 lks.; N. 27° W. 3 ch. 50 lks.; N. 71° W. 3 ch. 50 lks.; N. 57° W. 3 ch. 75 lks.; S. 75° W. 1 ch. 15 lks., to a post in a mound, 49th mile station. Running thence with the water-shed of Adams and Newton's Mill Creeks, S. 74° W. 3 ch.; S. 24° W. 3 ch.; S. 43° W. 8 ch. 50 lks.; S. 25° W. 5 ch. 50 lks.; S. 58° W. 4 ch. 50 lks.; S. 12° W. 1 ch. 75 lks.; S. 49° W. 1 ch. 50 lks.; S. 37° W. 7 ch. 50 lks.; S. 19° W. 4 ch. 75 lks.; S. 16° W. 3 ch. 50 lks., to a white oak 22 in. dia., "I. B." Thence S. 40° W. 4 ch. 25 lks.; S. 24° W. 7 ch. 25 lks.; S. 31° W. 4 ch. 50 lks.; S. 55° W. 1 ch. 25 lks.; S. 30° W. 4 ch.; S. 18° W. 4 ch. 50 lks.; S. 2° E. 3 ch. 50 lks.; S. 15° W. 2 ch. 50 lks.; S. 38° W. 3 ch. 75 lks.; S. 44° W. 1 ch., to a post in a mound, 50th mile station. Running thence with said water-shed S. 44° W. 4 ch.; S. 84° W. 3 ch.; S. 57° W. 2 ch.; S. 77° W. 3 ch. 50 lks.; N. 83° W. 2 ch. 50 lks.; S. 77° W. 3 ch. 25 lks.; N. 89° W. 5 ch.; N. 67° W. 3 ch.; thence with ridge leading to Newton's Mill Creek N. 54° W. 1 ch. 50 lks.; N. 34° W. 2 ch. 50 lks.; N. 40° W. 2 ch.; N. 68° W. 2 ch. 75 lks.; N. 83° W. 3 ch. 50 lks.; N. 50° W. 1 ch. 50 lks.; N. 53° W. 2 ch. 75 lks.; N. 73° W. 1 ch. 90 lks.; N. 16° W. 4 ch. 50 lks.; N. 45° W. 10 ch. 25 lks., to the center of Newton's Mill Creek. Thence down and with said creek S. 54° W. 6 ch. 50 lks.; S. 20° W. 9 ch. 25 lks.; S. 4 ch. 85 lks., to a post in a mound, 51st mile station, on east bank, the corner being properly in said creek. Running thence down said creek so as to include all the Indians living on the east side thereof, S. 39° W. 1 ch. 75 lks.; S. 24° E. 1 ch. 75 lks.; S. 14° W. 1 ch. 50 lks.; S. 21° E. 1 ch. 50 lks.; S. 35° W. 1 ch.; S. 12° E. 3 ch.; S. 35° W. 2 ch.; S. 5° E. 50 lks.; S. 34° E. 75 lks.; S. 10° E. 1 ch. 25 lks.; S. 26° E. 1 ch.; S. 15° W. 1 ch. 50 lks.; S. 5° E. 4 ch.; S. 40° W. 6 ch. 25 lks., center of said creek, chestnut on SE. bank 22 in. in dia., "I. B." to marked corner. Thence leaving said creek up a ridge S. 54° E. 6 ch. 25 lks.; S. 74° E. 9 ch.; S. 89° E. 2 ch. 65 lks.; S. 75° E. 3 ch. 60 lks., to a Spanish oak 20 in. dia., "I. B.," on water-shed of Adams and Newton's Mill Creeks. Thence S. 15° W. on said water-shed 6 ch. 25 lks.; S. 47° W. 1 ch. 75 lks.; S. 8° W. 10 ch.; S. 9° E. 5 ch.; S. 18° E. 4 ch. 25 lks.;

S. 43° W. 1 ch. 75 lks.; S. 3° E. 1 ch. 75 lks. to a post in mound, 52nd mile station. Running thence with said water-shed S. 6° W. 1 ch.; S. 25° W. 1 ch. 50 lks.; S. 5° W. 1 ch. 25 lks.; S. 8° E. 4 ch. 40 lks., to a pine 18 in. dia., "I. B." Thence S. 42° E. 3 ch. 25 lks.; S. 52° W. 3 ch.; S. 70° W. 1 ch. 25 lks.; S. 44° W. 4 ch.; N. 80° W. 2 ch. 50 lks.; S. 86° W. 5 ch.; S. 31° W. 4 ch. 25 lks.; S. 58° W. 2 ch. 45 lks., to a pine 26 in. in dia., "I. B." Thence S. 25° W. 4 ch.; S. 36° W. 2 ch. 15 lks.; S. 30° W. 1 ch. 25 lks.; S. 50° W. 7 ch. 25 lks.; S. 38° W. 4 ch.; S. 22° W. 2 ch. 50 lks.; S. 2 ch. 50 lks.; S. 8° W. 2 ch. 50 lks.; S. 26° W. 4 ch. 50 lks.; S. 36° W. 2 ch. 25 lks.; S. 26° W. 2 ch. 8 lks., to a pine 22 in. dia., "I. B." Thence S. 44° W. 3 ch.; S. 60° W. 5 ch.; S. 70° W. 3 ch. 17 lks., to a post in a mound, 53rd mile station. Running thence with said water-shed S. 76° W. 1 ch. 75 lks.; S. 36° W. 11 ch.; S. 34° E. 3 ch. 50 lks.; S. 42° E. 3 ch.; S. 10° E. 2 ch. 50 lks.; S. 73° W. 2 ch.; S. 45° W. 4 ch. 75 lks.; N. 78° W. 1 ch. 75 lks.; S. 73° W. 1 ch. 75 lks.; S. 87° W. 4 ch. 50 lks.; S. 37° W. 2 ch. 25 lks.; S. 2 ch.; S. 61° W. 8 ch. 50 lks.; S. 11° E. 2 ch. 25 lks.; S. 54° E. 1 ch. 50 lks.; S. 23° E. 1 ch. 75 lks.; S. 47° E. 5 ch.; S. 21° E. 2 ch. 75 lks.; S. 6° E. 3 ch. 50 lks.; S. 75° E. 2 ch. 50 lks.; S. 3° W. 3 ch. 50 lks.; S. 13° E. 4 ch. 25 lks.; S. 5° W. 1 ch. 50 lks.; S. 33° E. 2 ch. 25 lks., to a post in a mound, 54th mile station. Running thence with said water-shed S. 84° E. 2 ch. 20 lks., to a white oak 22 in. dia., "I. B." Thence S. 60° W. 4 ch.; S. 16° W. 5 ch. 25 lks.; S. 81° W. 1 ch. 50 lks.; S. 53° W. 2 ch.; W. 2 ch.; S. 2° W. 6 ch.; S. 42° W. 4 ch. 50 lks.; S. 81° W. 3 ch. 25 lks.; S. 34° W. 5 ch.; S. 21° W. 1 ch. 25 lks.; S. 80° W. 1 ch. 25 lks.; S. 15° W. 7 ch. 30 lks.; S. 20° W. 2 ch. 75 lks.; S. 39° W. 2 ch.; S. 5 ch. 50 lks.; S. 26° W. 6 ch. 15 lks.; E. 11 ch. 30 lks., to a black oak, 12 in. dia., "I. B." Thence E. 6 ch. 80 lks., to a post in a mound, 55th mile station. Running thence with Sim Sherrell's line E. 11 ch. 90 lks.; S. 11° E. 7 ch. 50 lks., to a black oak, 26 in. dia., "I. B." Thence with his line S. 69° E. (formerly S. 72° E.) 7 ch. 25 lks.; N. 16° E. (formerly 15° E.) 9 ch. 90 lks.; E. 24 ch. 95 lks. to a post "I. B." Sherrell's corner. Thence N. 65° E. 9 ch. 50 lks.; N. 5° E. 9 ch., to a post in a mound, 56th mile station. Running thence with said line N. 5° E. 35 ch. to Sherrell's corner. Thence with his line N. 50° E. 15 ch. 75 lks., to his corner. Thence S. 52° E. 14 ch. 90 lks.; thence S. 2° E. 14 ch. 35 lks., to a post in a mound, 57th mile station. Running thence with Sherrell's line and meanders of Ocona Lufta River, S. 2° E. 25 ch. 50 lks., to two maples, his corner, on N. bank of said river; thence S. 1 ch. to the center of said river. Thence down and with the meanders of said river on the left bank, S. 75° W. 2 ch.; S. 50° W. 2 ch.; S. 15° W. 2 ch. 50 lks.; S. 5° W. 12 ch.; S. 65° E. 23 ch. 50 lks.; S. 25° E. 5 ch.; S. 35° W. 6 ch. 50 lks. to a large rock 15 lks. high, 25 lks. in length, 58th mile station. Running thence with meanders of said river, S. 55° W. 3 ch. 50 lks.; S. 40° W. 5 ch.; S. 15° W. 3 ch. 50 lks.; S. 6° E. 4 ch.; S. 20° E. 11 ch.; S. 5 ch.; S. 20° W. 5 ch.; S. 50° E. from center, 1 ch., to a stake, and red oak, Jesse M. Bird's corner, on E. bank of river. Thence with his line, N. 68° 7 ch. 60 lks., to his corner. Thence N. 48° E. 3 ch. 90 lks., to a red oak, 12 in. dia., "I. B." Thence on ridge so as to include one tier of State surveys, S. 86° E. 4 ch. 50 lks.; N. 52° E. 3 ch. 45 lks.; N. 68° E. 6 ch. 60 lks.; S. 88° E. 2 ch.; S. 83° E. 2 ch. 75 lks.; S. 57° E. 9 ch. 50 lks.; S. 60° E. 1 ch. 70 lks., to a post in a mound, 59th mile station. Running thence to include one tier of said survey, S. 60° E. 1 ch.; N. 34° E. 3 ch.; N. 12° E. 5 ch. 50 lks.; N. 52° E. 4 ch. 80 lks.; N. 22° W. 6 ch.; N. 17° E. 3 ch.; N. 61° E. 4 ch.; N. 84° E. 3 ch.; N. 64° E. 2 ch. 75 lks.; S. 88° E. 4 ch. 75 lks.; S. 72° E. 1 ch. 50 lks.; N. 33° E. 7 ch. 20 lks., to a red oak 14 in. dia., "I. B." Thence N. 24° E. 31 ch. 10 lks., to a post in a mound, 60th mile station. Running thence so as to leave out J. A. Gibbs, N. 24° E. 17 ch.; N. 58° 6 ch. 20 lks.; N. 64° E. 4 ch.; N. 20° W. 3 ch. 50 lks.; N. 14° E. 4 ch. 25 lks.; N. 26° E. 4 ch.; N. 50° E. 1 ch. 5 lks.; N. 3° W. 3 ch. 25 lks.; N. 8° E. 3 ch. 15 lks. to a pine 14 in. dia. "I. B." Thence N. 24° W. 3 ch. 25 lks.; N. 13° E. 2 ch. 50 lks.; N. 33° E. 3 ch. 75 lks.; N. 77° E. 3 ch. 50 lks.; N. 85° E. 3 ch. 20 lks.; S. 75° E. 2 ch. 50 lks.; N. 72° E. 2 ch. 10 lks.; N. 21° E. 2 ch. 25 lks.; N. 11° E. 3 ch. 75 lks.; N. 61° E. 2 ch. 75 lks.; N. 76° E. 2 ch.; E. 1 ch. 55 lks.; N. 44° E. 50 lks., to a post in a mound, 61st mile station. Running thence N. 41° E. 1 ch. 75 lks.; N. 8° W. 5 ch. 50 lks.; N. 27° E. 2 ch. 50 lks.; N. 56° E. 3 ch. 25 lks.; S. 61° E. 4 ch. 50 lks.; S. 78° E. 6 ch.; N. 53° E. 5 ch. 75 lks.; N. 88° E. 2 ch. 25 lks.; N. 42° E. 4 ch.; N. 80° E. 4 ch.; N. 2 ch.; N. 20° E. 5 ch.; N. 10° W. 9 ch. 35 lks., to a locust on the SW. bank of Ocona Lufta River. Thence N. 40° E. 1 ch., to the center of said river. Thence up and with the meanders of said river S. 55° E. 3 ch.; S. 33° E. 10 ch.; S. 42° W., running so as to include Ah-ma-cha-ma in boundary 1 ch. 25° lks.; S. 42° W. 2 ch. 50 lks.; S. 42° W. 6 ch. 40 lks., to a post in a mound, 62nd mile station. Running thence S. 42° W. 19 ch. 25 lks.; S. 16° E. 5 ch. 50 lks.; S. 13° E. 2 ch. 85 lks.; S. 25° E. 3 ch.; S. 44° E. 5 ch. 25 lks.; S. 21° W. 3 ch.; S. 3° W. 1 ch. 5 lks.; S. 4° W. 4 ch.; S. 57° E.; 4 ch. 50 lks.; S. 74° E. 4 ch. 75 lks.; S. 39° E. 3 ch. 75 lks.; S. 50° E. 5 ch.; S. 78° E. 4 ch.; S. 57° E. 6 ch.; S. 81° E. 2 ch. 50 lks.; N. 88° E. 4 ch.; N. 49° E. 1 ch. 50 lks., to a post in a mound, 63rd mile station. Running thence N. 43° E. 10 ch. 25 lks.; N. 50° E. 5 ch.; N. 12° E. 4 ch.; N. 2° E. 2 ch. 75 lks.; N. 14° E. 6 ch. 85 lks., to a red oak 22 in. dia., "I. B." Thence N. 35° W. 7 ch.; N. 26° W. 3 ch. 50 lks.; N. 5° W. 1 ch. 90 lks.; N. 17° W. 2 ch. 25 lks.; N. 8° W. 1 ch. 25 lks.; N. 6° E. 2 ch. 50 lks.; N. 38° E. 1 ch.

75 lks.; N. 69° E. 1 ch., to a gum 16 in. dia., "I. B." Thence N. 51° E. 1 ch. 25 lks.; N. 41° W. 1 ch. 50 lks.; N. 31° W. 14 ch. 50 lks., to center of Ocona Lufta River, Thence S. 85° E. up said river with its meanders 11 ch. to the mouth of Soco Creek. Thence from the center of said river up said creek S. 33° E. 1 ch. 75 lks., to a post in a mound on the S. bank of said creek, 64th mile station; the station proper being in the center of the creek. Running thence up Soco Creek with Thomas's 2,500 acre grant S. 40° E. 5 ch. 50 lks.; S. 65° E. 3 ch.; S. 40° E. 3 ch. 50 lks., to center of Soco Creek, poplar on N. bank, "I. B." Thence from center of creek with Jackson County line N. 76° E. 2 ch., to bunch of walnuts. Thence S. 82° E. with county line, 11 ch. 50 lks.; S. 69° E. 5 ch.; S. 20° E. 1 ch. 25 lks.; S. 47° E. 4 ch.; S. 29° E. 75 lks., to a red oak stump, corner of 2,500 acre grant. Thence with line of said grant N. 63° E. 7 ch. 50 lks.; N. 60° E. 13 ch. 50 lks.; S. 75° E. 10 ch.; N. 75° E. 6 ch.; N. 48° W. 6 ch. 50 lks. (leaving out Thomas mill tract, to a post in a mound, 65th mile station). Running thence variation 2° 30' E.; N. 48° W. 13 ch., to a red oak 18 in. dia., "I. B." Thence with meanders of ridge N. 9° E. 3 ch.; N. 19° E. 3 ch. 50 lks.; N. 25° E. 3 ch.; N. 47° E. 2 ch.; N. 64° E. 2 ch. 50 lks.; N. 53° E., to a stake and sycamore on N. bank of Soco Creek, leaving out Thomas's mill tract. Thence up said creek on N. side with meanders N. 9° E. 2 ch. 25 lks.; N. 47° E. 1 ch. 50 lks.; N. 67° E. 2 ch. 25 lks.; E. 1 ch. 50 lks.; S. 83° E. 2 ch. 35 lks.; S. 70° E. 2 ch. 75 lks., to a stake on bank of said creek at Birdtown and Qualla Road Ford. Thence leaving out Thomas's mill tract and 500 acre tract S. 3° E. 12 ch. 75 lks.; S. 19° E. 3 ch. 25 lks.; S. 45° E. 4 ch. 25 lks.; S. 61° E. 4 ch., to a white oak stump, corner of Thomas's 500 acre tract. Thence N. 76° E. 7 ch. 25 lks., to a post in a mound, 66th mile station. Running thence with line of said tract N. 76° E. 8 ch. 60 lks., to a sourwood at a path, corner of said tract. Thence S. 39° E. 4 ch. 50 lks.; S. 36° W. 5 ch. 50 lks.; S. 16° W. 4 ch. 50 lks.; S. 39° E. 14 ch., to a stake, formerly a Spanish oak, corner of said tract. Thence S. 51° E. 8 ch.; S. 89° E. 8 ch.; N. 86° E. 15 ch.; N. 57° E. 10 ch. 90 lks., to a post in a mound, 67th mile station. Running thence with the line of said tract leaving the same outside N. 57° E. 4 ch.; S. 64° E. 10 ch.; S. 78° E. 5 ch. 10 lks.; S. 19° E. 4 ch.; S. 84° E. 29 ch. 90 lks.; N. 71° E. 10 ch. 10 lks.; N. 45° E. 13 ch. 50 lks.; S. 77° E. 3 ch. 40 lks., to a post in a mound, 68th mile station. Running thence with the line of said tract S. 77° E. 6 ch.; N. 76° E. 9 ch.; S. 49° E. 3 ch. 50 lks., to sourwood. N. 67° E. 21 ch. 50 lks.; N. 76° E. 23 ch. 50 lks., to a rock where a hickory once stood. Thence S. 74° E. 16 ch. 50 lks., to a post in a mound, 69th mile station. Running thence with a line of said tract S. 74° E. 26 ch. 10 lks., to a red oak, S. 44° E. 47 ch. 65 lks., to chestnut oak on the side of a mountain. Thence S. 87° W. 6 ch. 25 lks., to a post in a mound, 70th mile station. Running thence with line of said 500-acre tract, leaving the same outside S. 87° W. 80 ch., to a post in a mound, 71st mile station. Running thence with line of said tract, variation 2° 30' E., S. 87° W. 11 ch. 25 lks., to a small white oak; N. 77° W. 28 ch. 75 lks.; thence including the Thompson Carter tract N. 12° W. 10 ch. 25 lks. to a white oak 16 in. dia., "I. B." Thence W. 29 ch. 75 lks., to a post in a mound, 72nd mile station. Running thence to include the Carter tract, and with J. B. Sherrell's lines, S. 60° W. 6 ch. 85 lks., to a forked red oak 24 in. dia., "I. B." Thence S. 35° W. 11 ch. 55 lks., to a sourwood in the Meiggs, Freman, and Sherrell's line. Thence with said line S. 50½° E. (formerly 52½° E.) 24 ch. 50 lks., to a blazed white oak, Sherrell's corner. Thence with Sherrell's line S. 2½° W. (formerly S.) 34 ch. 35 lks., to a gum 20 in. dia., "I. B." Sherrell's corner. Thence S. 62° E. 2 ch. 75 lks., to a post in a mound, 73rd mile station. Running thence with Standing Water's first claim, including it, S. 62° E. 75 lks.; S. 87° E. (formerly E.) 25 ch., to a hickory, corner of Standing Water's private claim. Thence N. 11° E. 14 ch. 75 lks., to a locust in the Meiggs and Freeman line. Thence S. 51° E. 18 ch., to the top of mountain. Thence with water-shed of said mountain, N. 68° E. 2 ch.; N. 85° E. 2 ch.; N. 78° E. 2 ch.; E. 2 ch.; N. 66° E. 2 ch. 50 lks.; N. 26° E. 1 ch. 50 lks.; N. 33° E. 3 ch.; S. 69° E. 2 ch. 50 lks.; E. 75 lks.; N. 62° E. ch. 25 lks.; N. 77° E. 1 ch., to a post in a mound, 74th mile station. Running thence with ridge approaching watershed of Shoal and Soco Creeks, N. 64° E. 2 ch. 25 lks.; S. 63° E. 2 ch. 50 lks.; S. 46° E. 2 ch. 50 lks.; S. 53° E. 11 ch. 20 lks.; N. 55° E. 3 ch. 50 lks.; N. 37° E. 1 ch. 75 lks.; N. 74° E. 1 ch.; N. 62° E. 1 ch. 50 lks.; N. 63° E. 3 ch. 25 lks.; S. 86° E. 1 ch. 25 lks.; N. 66° E. 5 ch.; S. 80° E. 1 ch. 50 lks.; N. 80° E. 4 ch. 5 lks.; N. 61° E. 3 ch. 25 lks.; N. 83° E. 4 ch. 25 lks.; N. 41° E. 2 ch.; S. 75° E. 2 ch. 50 lks.; N. 66° E. 4 ch.; S. 17° E. 2 ch. 75 lks.; S. 76° E. 3 ch. 75 lks.; N. 80° E. 1 ch. 25 lks.; S. 71° E. 3 ch. 25 lks.; N. 69° E. 6 ch. 25 lks.; S. 40° E. 2 ch.; S. 50° E. 3 ch. 50 lks., to a post in a mound, 75th mile station. Running thence with said ridge and water-shed of Shoal and Soco Creeks, S. 47° E. 6 ch. 35 lks.; S. 69° E. 3 ch. 25 lks.; S. 87° E. 1 ch. 50 lks.; S. 50° E. 3 ch.; S. 36° E. 1 ch. 20 lks.; S. 42° E. 3 ch. 50 lks.; S. 18° E. 1 ch.; S. 1° E. 4 ch.; S. 62° E. 2 ch. 50 lks.; S. 52° E. 2 ch. 50 lks.; S. 88° E. 4 ch. 95 lks., to a white oak 10 in. dia., "I. B." Thence S. 62° E. 1 ch. 25 lks.; N. 88° E. 3 ch.; S. 46° E. 2 ch.; S. 63° E. 7 ch.; S. 51° E. 3 ch.; S. 74° E. 2 ch.; S. 40° E. 1 ch.; S. 77° E. 3 ch. 50 lks.; S. 41° E. 2 ch.; S. 70° E. 5 ch. 50 lks.; S. 60° E. 4 ch. 5 lks., to a red oak 10 in. dia., "I. B." Thence S. 76° E. 4 ch. 75 lks.; N. 50° E. 2 ch.; N. 71° E. 4 ch.; S. 61° E. 1 ch. 20 lks., to a post in a mound, 76th mile station. Running thence with water-shed of Soco and Ward's

Creeks, approaching the SE. corner of the Cathcart survey, S. 51° E. 2 ch. 75 lks.; S. 39° E. 7 ch., to the water-shed of Soco Dick's Creeks. Thence with said water-shed N. 60° E. 4 ch. 40 lks.; N. 51° E. 3 ch. 50 lks.; N. 42° E. 2 ch. 50 lks.; N. 26° E. 3 ch.; N. 42° E. 2 ch.; N. 71° E. 5 ch. 25 lks.; S. 70° E. 5 ch.; N. 83° E. 10 ch. 60 lks.; S. 87° E. 4 ch. 35 lks., to a double red oak 12 in. dia., "I. B." Thence N. 68° E. 3 ch. 75 lks.; S. 50° E. 1 ch. 60 lks.; S. 62° E. 3 ch. 50 lks.; S. 40° E. 5 ch. 75 lks.; N. 30° E. 3 ch. 50 lks.; N. 18° E. 3 ch. 50 lks.; N. 62° E. 6 ch.; N. 23° E. 2 ch. 5 lks., to a post in a mound, 77th mile station. Thence leaving the said water-shed and running N. 77° W. 7 ch. 40 lks., to a monument of stones and two wild-cherry trees, marked "I. B." Thence N. 45° E. 5 ch., to a pile of stones and a small locust tree the SW. corner of the Cathcart survey. Thence with the closing line of said survey, N. 45° E. 452 ch. 25 lks., to a post and oak stump, the place of beginning.

For a more full and perfect description of which tract of land reference is here made to the field notes of the survey of the same, on file in the General Land Office, or a copy of the same on file in the Office of Indian Affairs, Washington, D. C., marked L 236 (1876), together with all and singular the hereditaments and appurtenances thereunto belonging or in any wise appertaining, and the reversing and remainders, rents, issues, and profits thereof. To have and to hold the said above-described premises, with the appurtenances thereunto belonging unto the said Eastern Band of North Carolina Cherokee Indians, their heirs and successors, forever. But without the power of alienation, except by and with the assent of their council, and the approval of the President of the United States.

This deed is executed and delivered in pursuance of the award and decree of the court in above-mentioned case of "Eastern Band of Cherokee Indians *vs.* William H. Thomas *et al.*," and is intended to convey to said "Eastern Band of Cherokees" the interests acquired by said William Johnston in and to the above-described lands, under deed of conveyance made to him by the sheriff of Jackson, in June, 1869, by virtue of sales of said lands made in pursuance of executions in the hands of said sheriff, issued on judgments in favor of said Johnston against William H. Thomas, and no further.

In witness whereof, the said parties of the first part have hereunto set their hands and seals this 9th day of October, 1876.

WM. JOHNSTON. [SEAL.]
L. M. JOHNSTON. [SEAL.]

In probate court.

BUNCOMBE COUNTY:

Be it known that on this 9th day of October, 1876, before the undersigned, judge of probate in and for said county of Buncombe, personally came William Johnston and wife, Lucinda M., the parties described in the foregoing deed of conveyance to the Eastern Band of Cherokee Indians, and each duly acknowledged the execution thereof for the purposes therein mentioned; and thereupon the said Lucinda M. Johnston being by me privately examined, separately and apart from the said husband, touching her free consent in the execution of said deed, doth declare upon such her examination that she executed the same freely, voluntarily, and of her own accord, without any fear, force, or undue influence on the part of her said husband, or any one else; and that she doth still voluntarily assent thereto. Therefore let said deed and this certificate be registered.

[SEAL.]

J. E. REED,
Judge of Probate.

STATE OF NORTH CAROLINA,
Jackson County:

I, A. M. Parker, probate judge of Jackson County, do adjudge from the certificate of J. E. Reed, probate judge of Buncombe County, to be correct. Therefore let the deed, with the certificate, be registered this June 30th, 1880.

A. M. PARKER,
Probate Judge of Jackson County, N. C.

Regs. fee, \$10.50.
Probate judge, .25.

OFFICE OF REGISTER OF DEEDS,
June 30, 1880.

STATE OF NORTH CAROLINA,
Jackson County:

The within deed was this day duly registered in Book G, beginning on page 334 and ending on page 353.

A. J. LONG,
Register of Deeds.

In the probate court.

SWAIN COUNTY:

It is adjudged that the certificate of J. E. Reed, probate judge of Buncombe County, is correct and genuine.

Therefore let the deed with certificates be registered in Swain County.

This July 3rd, 1880.

SAM. B. GIBSON,
Probate Judge.

Office of Register of Deeds of Swain County, North Carolina.

I, T. H. Parrish, register of deeds of said county, do hereby certify that the foregoing and within deed with the probate's certificate and register's certificate and amount of fees did this day complete the registration in said county in Book B, No. 2, beginning on page 290 and ending on page 317.

This July the 8th, A. D. 1880.

T. H. PARRISH,
Register of Deeds for Swain County, N. C.

Reg. fees, \$10.50.

[Enclosure 8.]

Whereas, under an award made by Rufus Barringer, John H. Dillard, and Thomas Ruffin, arbitrators, in the case of the Eastern Band of Cherokee Indians against William H. Thomas, William Johnston, *et al.*, in the circuit court of the United States for the western district of North Carolina, James W. Terrell and Thomas D. Johnston were, by a decree of said court, appointed commissioners to sell certain lands referred to in said award to discharge and pay off the judgments therein awarded to be due to William Johnston from William H. Thomas, which said lands had theretofore been sold under execution on said judgments and conveyed by deeds executed by the sheriffs of the counties of Cherokee, Macon, and Jackson, North Carolina, to the said William Johnston; and whereas, since the date of said decree said judgments have been purchased and duly assigned to the Commissioner of Indian Affairs of the United States, in trust, and for the use and benefit of the Eastern Band of Cherokee Indians of North Carolina, and under the provisions of an act of Congress, entitled "An act to authorize the Commissioner of Indian Affairs to receive lands in payment of judgments to Eastern Band of Cherokee Indians," approved, August 14, 1876, the Commissioner of Indian Affairs was authorized to purchase and receive certain lands, therein referred to, in full payment and final discharge of the aforesaid judgments, in trust and for the use and benefit of said Eastern Band of Cherokee Indians; and whereas, in pursuance of the provisions of said act of Congress, Mark C. King, on the part of the Commissioner of Indian Affairs, and William A. Dills on the part of William H. Thomas, were selected as appraisers to value and appraise the lands hereinafter described, which are referred to in the aforementioned award, and were duly selected by said Eastern Band of Cherokee Indians, through a committee appointed by them at their annual general council, held at Cheoah council grounds in Graham Co., North Carolina, on the first Monday of October, 1876; and whereas in consideration of the above recited facts, and in full satisfaction of the said judgments amounting to the sum of twenty thousand five hundred and sixty-one and 85-100 dollars, a deed was executed on the 9th day of October, A. D. 1876, by William Johnston and wife, Lucinda M. Johnston, of the county of Buncombe, North Carolina, and James W. Terrell, of Jackson Co., and Thomas D. Johnston, of Buncombe Co., State aforesaid, commissioners named in said award, and also agents and attorneys for William H. Thomas, by virtue of a power of attorney dated June 3, 1875, to the Commissioner of Indian Affairs, as trustee for said Eastern Band of Cherokee Indians, for 15,211½ acres, which are referred to in the aforesaid award, in satisfaction of said judgments; and whereas, in making said deed it was found impracticable to obtain correct descriptions of the lands to be conveyed until after a survey of the same, it was agreed by and between all parties to said deed that after a survey was made a new deed should be executed by William Johnston and wife, and Messrs. Terrell and Johnston, commissioners as aforesaid, and attorneys for William H. Thomas, containing correct descriptions of said lands; and it was further understood and agreed at the time of executing said deed between all parties to the same, that when the number of acres called for in said deed should not hold out by the survey the balance was to be made up by the said parties from adjacent lands owned by them, and in case the area should overrun the number of acres called for in said deed, the deduction should be made in the new deed; and that all clouds upon the title to the lands in question were to be removed by said William H. Thomas, and that in case any lands included in the said deed shall have been conveyed

by said Thomas to white men before the execution of the said deed of October 9, 1876, then and in such case, other lands of the same class may be substituted therefor to the extent of 600 acres, it being contemplated in said deed to convey just the number of acres at the value fixed by the appraisers necessary to liquidate the judgments aforesaid; and whereas said lands which have unclouded titles have been surveyed, and correct descriptions and area obtained, and it has also been found that part of the lands included in the State grants embraced in said deed have been conveyed by said Thomas to white men before the execution of the same, and that these titles cannot be cleared now, and the parties of the first part having agreed to substitute other lands therefor, which has received the approval of the Commissioner of Indian Affairs, dated June 22, 1880; and the said tracts to be so substituted having been duly selected by the said Eastern Band of Cherokee Indians through a committee appointed by them at a special meeting of the regular council of the band held July 3, 1880, at Yellow Hill Council House, in Swaine Co., N. C.; and whereas, since the date of the first deed, the said William H. Thomas has been declared a lunatic, and William L. Hilliard, of Buncombe Co., was appointed April 5, 1878, his guardian by the probate court of Jackson Co., N. C., and then has upon due proceedings had an order made and entered in the said probate court authorizing and directing the said guardian to make and execute title to the lands hereinafter described:

Now, therefore, in consideration of the above-recited facts, and in full satisfaction of the aforesaid judgments, which amounted at the date of the first deed, October 9, A. D. 1876, to the sum of twenty thousand five hundred and sixty-one and $\frac{8}{100}$ dollars, the following indenture (which is to take the place of the first deed) is executed:

This indenture, made and executed this (14) fourteenth day of August, in the year of our Lord one thousand eight hundred and eighty, by and between William Johnston and wife, Lucinda M. Johnston, and William L. Hilliard, of Buncombe Co., North Carolina, guardian of William H. Thomas, as aforesaid, and James W. Terrell, of Jackson Co., and Thomas D. Johnston, of Buncombe Co., State aforesaid, commissioners under the said decree of the circuit court of the United States for the western district of North Carolina, at the November term, A. D. 1874, at Asheville, and also as agents and attorneys for William H. Thomas by virtue of a power of attorney to them, dated June 3, 1875, of the first part, and the Commissioner of Indian Affairs of the United States as trustee for said Eastern Band of Cherokee Indians of North Carolina of the second part, witnesseth:

That the said parties of the first part, for and in consideration of the premises, and in the further consideration of the payment of the amount and final discharge of said judgments, amounting to twenty thousand five hundred and sixty-one and $\frac{8}{100}$ dollars the receipt whereof is hereby confessed and acknowledged, have granted, bargained, sold, aliened, enfeoffed, released, and conveyed, and do by these presents grant, bargain, sell, alien, enfeoff, release, and convey unto the party of the second part, the Commissioner of Indian Affairs and his successors in office, as trustee for the Eastern Band of Cherokee Indians of the State of North Carolina, all their right, title, interest, claim, or demand whatsoever in and to the following-described lands, to wit:

1. The land awarded to Dick-ageeskees heirs, being section 367 in district number nine in Graham County, N. C., bounded and more particularly described as follows, viz: Beginning on a hickory on a ridge N. W. corner of 405, from which a B. oak 6 in. dia. bears S. 37 W. 7 links dist., and a B. oak 6 in. dia. bears W. 20 links dist.; thence N. 50 E., reaching corner No. 2 at 90 poles a hickory (fallen) corner on a small hickory; thence S. 50 E. alongside of a ridge reaching a chestnut in a hollow at 180 poles, cor. 3 (formerly a stake); thence S. 50 W. 90 poles to a post oak on a ridge, beginning cor. of No. 405; thence N. 50 W. with the line of No. 405 180 poles to the beginning, containing one hundred acres.

2. The land awarded to Oo-tal-ka-nah, being section three hundred and seventy-three in district number nine, in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning on a Spanish oak 5 poles from N. bank of Snowbird River, from which a white oak 28 in. dia. bears S. 30 E. 47 links dist., and a B. oak 8 in. dia. bears N. 50 E. 32 links dist.; thence N. 30 E. reaching corner at 100 poles, a sourwood on a rock (fallen), corner on a hickory; thence E. 140 poles to a red oak (fallen), cor. on a white oak, corner 3 and corner 2 of tract No. 1995; thence S. 30 W. 100 poles to a cottonwood on the N. bank of Snowbird River; thence up the river as it meanders, reduced to direct line 140 poles to the beginning, containing seventy-five acres.

3. The land awarded to Chin-aque (or John Owl), "whereon he lived in 1855, in Cherokee County, excepting all mineral interest," being tract number 98 in district number one in said county, on the waters of Vengeance Creek, bounded and more particularly described as follows, viz: Beginning at a pine the beginning corner of No. 97 from which a white oak 15 in. dia. bears N. 2 E. 34 links dist. and a white oak 20 in. dia. bears N. 55 E. 30 links distant and hickory 12 in. dia. bears S. 47 E. 27 links dist. thence E. crossing Vengeance Creek at 34 poles, reaching corner at a birch at 108 poles; thence N. crossing Vengeance Creek, reaching corner at 126 poles, corner on a

sassafras; thence W. 108 poles to a B. oak cor. of No. 96; thence S. with the line of No. 96 126 poles to the beginning, containing eighty-five acres.

4. The land awarded to Too-way-al-lah, being part of number twelve in district number ten, in Graham Co., N.C., bounded and more particularly described as follows, viz: Tract lying on the waters of Snowbird Creek; beginning on a post the NW. corner of 363 of the State survey, from which a black oak 6 in. dia. bears N. 4 W. 24 links dist., and a white oak 6 in. dia. bears S. 85 W. 43 links dist.; thence S. 65 W. 180 poles to a chestnut oak, corner 2; thence S. 40 E. 90 poles to a hickory, corner 3, on the side of a ridge; thence N. 65 E. 180 poles to a hickory on a line of No. 363 of the State survey, corner 4; thence with said line N. 40 W. 90 poles to the beginning, containing ninety-nine acres.

5. The land awarded to Corn Silk, being section 588 in district number nine, in Graham Co., N.C., bounded and more particularly described as follows, viz: Beginning on a hickory from which a black gum 6 in. dia. bears N. 32 W. 23 links dist., and a white oak 12 in. dia. bears N. 75 E. 60 links dist.; thence S. 66 W. 90 poles to a white oak near a trail, corner 2; thence N. 53 W. 180 poles to a chestnut (fallen) corner on a spruce pine, corner 3; thence N. 66 E. reaching Snowbird River at 44 poles, reaching a chestnut at 90 poles on the N. bank of said river, corner 4; thence S. 53 E. crossing river at 2 poles, reaching beginning at 180 poles, containing ninety acres.

6. The land awarded to Tracking Wolf, being section 404 in district number nine, in Graham Co., N.C., bounded and more particularly described as follows, viz: Beginning on a Spanish oak, formerly a hickory, from which a chestnut 48 in. dia. bears S. 42 W. 34 links distant, and a chestnut oak 20 in. dia. bears N. 68 E. 25 links dist.; thence N. 35 W. 160 poles to a spruce pine in the line of No. 367, corner 2; thence with said line S. 50 W. 40 poles to a post oak, corner 3, and beginning corner of No. 405, 4 corner of No. 367; thence S. 10 E. 10 poles with the line of No. 405, 20 poles to a post in a field; thence S. 35 E. crossing Snowbird River at 28 poles, reaching corner No. 4 at 140 poles, a hickory, formerly a stake on W. bank of Snowbird River; thence N. 10 E. along face of mountain, crossing Snowbird River at 72 poles, passing corner of No. 59 at 84 poles, reaching the beginning at 125 poles, containing ninety-three acres.

7. The land awarded to Richard Henson in section fourteen in district number five, in Cherokee Co., N.C., bounded and more particularly described as follows, viz: Beginning on a black oak (fallen), set a post which stands S. 160 poles from No. one connecting line of this tract, from which a Spanish oak 4 in. dia. bears S. 12 W. 10 links dist. and a black oak 4 in. dia. bears N. 59 W. 12 links dist.; thence S. 160 poles to a black oak, the N. W. cor. of No. 4; thence E. 103 poles to a black gum, the S. W. corner of No. 9 in the gap of small ridge near the new turnpike road; thence N. 160 poles, reaching corner N. W. corner of No. 9 (fallen), set a post; thence W. 103 poles to the beginning, containing one hundred and three acres.

8. The land awarded to Richard Henson and others, and their heirs, in section eleven in district number five, in Cherokee Co., N.C., bounded and more particularly described as follows, viz: Beginning on a post the N. W. cor. of tract No. 9, and the N. E. cor. of No. 2 of the U. S. survey, from which a white oak 15 in. dia. bears N. 61 E. 42 links dist., and a B. oak 12 in. dia. bears S. 9 W. 30 links distant; thence E. 160 poles to a post oak on top of hill N. E. cor. of No. 9; thence N. passing N. W. cor. of No. 8 at 80 poles, reaching corner at 439 poles (fallen), set a post from which a sassafras 12 in. dia. bears N. 30 E. 32 links dist., and a chestnut 14 in. dia. bears N. 77 W. 30 links distant; thence W. crossing turnpike road at 124 poles, total distance 160 poles, to corner 3 (set a post), from which a red oak 10 in. dia. bears S. 74 E. 15 links dist., and a pine 12 in. dia. bears N. 10 E. 25 links dist.; thence S. recrossing turnpike road at 70 poles, reaching the beginning at 439 poles, containing four hundred and thirty-nine acres.

9. The land ("bounty claim") awarded to Richard Henson, in district number five, in Cherokee County, N.C., bounded and more particularly described as follows, viz: Beginning at a post oak SW. corner of No. 21, from which a post oak 20 in. dia. bears S. 10 W. 20 links dist. and a hickory 6 in. dia. bears N. 82 E. 19 links dist. and a chestnut 6 in. dia. bears N. 22 W. 4 links dist.; thence W. reaching cor. at 139 poles; thence N. 45 W. 48 poles, but found to be S. 72 poles to a hickory (fallen), set a post from which a white 8 in. dia. bears N. 18 W. 35 links dist. (no other witness tree available); thence W. crossing Hanging Dog at 47 poles, reaching corner at 67 poles; thence N. 45 W. 47 poles to corner of No. 20; thence N. 41 poles to a pine in line of No. 20; thence W. reaching corner at 379 poles and with Fains donation line; thence S. 1 W. reaching cor. at 95 poles; thence S. 20 W., found to be S. 68 W., crossing a small ridge reaching cor. at 66 poles; thence S. 9 E. 59 poles, found to be 66 poles; thence S. 8 poles to a post oak, NE. cor. of No. 58; thence S. 186 poles, passing Campbell Taylor's farm, it being corner of No. 56 (fallen), set a post from which a B. oak 12 in. dia. bears S. 20 E. 35 links dist. and a B. oak 11 in. dia. bears S. 9 W. 35 links dist.; thence N. 57 E., found to be N. 67 E., reaching cor. at 77 poles on side of a hill; thence S. 23 E., found to be S. 70 E., reaching cor. at the E. bank of Grape

Creek, crossing creek at 79 poles; thence S. 43 E. 28 poles, recrossing Grape Creek, NW. of No. 61 corner tree fallen, set a post, no witness trees available; thence E. crossing a dim road at 48 poles, passing over rolling land, and NE. cor. of No. 61 at 102 poles, reaching N. E. cor. of No. 62 at 268 poles; thence S. 123 poles to a post oak SE. cor. of No. 62; thence W. with the line of No. 62, 52 poles to a post oak in said line; thence S. 141 poles to a B. oak in N. boundary line No. 36; thence F. 222 poles with the line of No. 36 and 35, passing its cor. at 60 poles, a B. oak and stake is NE. cor. of No. 35; thence N. 120 poles to a small black oak, NW. cor. of No. 14 (not found), set a post, crossing Hanging Dog Creek at 80 poles; thence E. with the line of No. 14, 166 poles to a small post oak; thence N. passing NW. cor. of No. 16, crossing a small branch at 124 poles, ascending a long ridge reaching top of ridge at 336 poles, descending hill reaching corner at 434 poles a hickory in line of No. 44, cut down, corner on a B. oak; thence W. passing SW. corner of No. 44 at 10 poles, reaching corner at 100 poles SW. and beginning corner of No. 22; thence N. thro. flat land reaching the beginning at 100 poles, containing two thousand one hundred and eighty acres.

10. The land awarded to "Salka-nah and others," in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Tract number sixty-three, in district number six, beginning on a Spanish oak NE. cor. of number 61, from which a B. oak 6 in. dia. bears S. 40° E. 12 links distant, and a Spanish oak 6 in. dia. bears NW. 36 links dist.; thence N. over rolling land 121 poles to a B. oak in gap of ridge; thence W. across side of mountain with the line of No. 64, 121 poles to a blackjack; thence S. ascending mountain, reaching cor. at 121 poles, a black oak; thence E. with the of No. 61, 121 poles to the beginning, containing ninety-one acres.

11. The land awarded to Tes-a-tees-kak, situated in district number nine, in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning at a small hickory on the E. bank of Snowbird River, old corner (fallen), from which a hickory 6 in. dia. bears N. 45 W. 7 links distant, and a white oak 6 in. dia. bears S. 45 W. 15 links distant; thence E. ascending mountain, reaching corner on side of said mountain at 94 poles a hickory, corner 2; thence S. along the face of the mountain, descending gradually, reaching Snowbird River at 110 poles, this point being N. 55 W. 116 poles from the 2d and NE. cor. of No. 367, beginning to ascend a steep mountain at 115 poles, reaching corner No. 3, a chestnut, at 127 poles; thence W. along the side of a mountain, reaching corner at 94 poles, a chestnut (fallen), corner on a white oak, corner 4; thence N., descending mountain, reaching river at 124 poles, reaching beginning at 127 poles, containing seventy four acres.

12. The land awarded to George Oo-yah-ste-ah, in section 365, in district number nine, in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning on a B. oak from which a white oak 8 in. dia. bears E. 34 links dist. and a Spanish oak 6 in. dia. bears W. 14 links dist.; thence S. 90 poles to a chestnut, corner No. 2; thence W. ascending a mountain gradually reaching top 106 poles, beginning to descend mountain at 108 poles, reaching base at 165 poles, reaching an apple tree at 180 poles, corner No. 3; thence N. 90 poles to a B. oak, formerly a stake, corner No. 4; thence E. ascending mountain reaching top at 20 poles; thence along the face of the mountain 180 poles to beginning, containing one hundred and one acres.

13. The land awarded to Cah-nah-a-to-go and others, in section 405, in district number nine, in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning on a post oak on a ridge from which a B. oak 6 in. dia. bears S. 29 E. 70 links dist. and a B. oak 14 in. dia. bears N. 37 links dist.; thence N. 50 W. reaching Snowbird River at 108 poles, reaching a hickory at 180 poles, corner No. 2, with the line of No. 367; thence S. 10 E. reaching an iron-wood in a cove at 90 poles, corner No. 3; thence S. 50 E. crossing Snowbird River at 146 poles; thence over flat-land crossing river at 162 poles, crossing again at 180 poles, reaching corner at formerly a stake but made on a large spruce pine at 180 poles, corner No. 4; thence N. 90 poles to beginning, containing sixty-three acres.

14. The land awarded to Co-he-los-kah, in section 93, in district number nine, in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning on a white oak on point of a ridge, at N. E. corner of No. 17, from which a post oak 14 in. dia. bears S. 47 W. 50 links dist. and a white oak 10 in. dia. bears N. 60 west 10 links dist.; thence W. with the line of No. 17, reaching Snowbird Creek at 108 poles, reaching a post on the W. bank at 112 poles, corner No. 2; thence N. with the line of No. 98, reaching the E. bank of Snowbird River at 24 poles, running over smooth rolling land 190 poles to a post oak, corner No. 3; thence E. with the line of No. 96, 112 poles to a young B. oak for cor. No. 4, and N. W. corner of No. 91; thence S. with the line of No. 91, 190 poles to the beginning, containing one hundred and thirty-three acres.

15. The lands awarded to Chees-que-ne-tah (or Tom-tee-ote lah), in district number ten, in Graham Co., N. C., on the waters of Buffalo Creek, bounded and more particu-

larly described as follows, viz: Beginning on a small chestnut on bank of branch 5 poles N. from N. W. corner of tract No. 13, in district number ten, from which a white oak 12 in. dia. bears N. 50 links distant, and a white oak 8 in. dia. bears S. 76 W. 30 links dist. Thence N. 67 W. reaching a pine at 180 poles, on side of mountain, corner No. 2; thence S. along side of a mountain 165 poles to a large hickory in a cove, corner No. 3; thence E. descending gradually, reaching a pine at 160 poles, in the line of No. 13, cor. No. 4; thence N. with the line of No. 13, 92 poles to the beginning, passing N. E. cor. of No. 13 at 87 poles, containing one hundred and twenty-eight acres.

16. The land awarded to Tetel-ka-nah, being tract No. 91, in district number nine, in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning on a white oak on the S. side of a hill, N. W. cor. of No. 19, from which a B. oak 14 in. dia. bears N. 67 W. 100 links dist., and a hickory 6 in. dia. bears N. 56 E. 30 links dist; thence W. with the lines of numbers 95 and 96 over rolling land 197 poles, to a young B. oak in the line of No. 96; thence S. with the line of No. 93 190 poles to a white oak on point of a ridge for corner No. 2; thence E. with the line of No. 16 and 15 ascending a hill at 24 poles, reaching top at 112 poles, descending at 144 poles, passing corner of No. 16 at 152 poles, total 197 poles, to a B. oak for corner No. 4; thence N. 190 poles to the beginning, with the line of No. 19, containing two hundred and thirty-four acres.

17. Tract number seventeen, in district number nine, in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning on a mountain oak on point of ridge S. W. corner of No. 91, from which a post oak 14 in. dia. bears S. 47 W. 50 links dist., and a white oak 10 in. dia. bears No. 60 W. 10 links dist.; thence S. over rolling land with the line of No. 16, reaching at 184 poles a hickory on the side of a mountain for corner No. 2; thence W., reaching a hickory on side of a mountain at 112 poles, corner No. 3; thence N. over rolling land 160 poles to Snowbird River, reaching at 184 poles to a post, corner No. 4, on the W. bank of said river, from which a spruce pine 6 in. dia. bears S. 6 E. 40 links dist., and a chestnut 12 in. dia. bears S. 6 E. 40 links dist., and a chestnut 12 in. diameter bears N. 4 W. 44 links dist.; thence E. with the line of No. 93, crossing Snowbird River 4 poles wide, runs N. E., reaching at 112 poles the beginning, containing one hundred and twenty-eight acres.

18. Tract number 37, in district number nine, in Graham Co., N. C., bounded and more particularly described as follows, viz: beginning on a hickory N. E. corner of No. 33, from which a B. oak 8 in. dia. bears N. 30 W. 42 links, and a Spanish oak 20 in. dia. bears S. 20 E. 33 links distant; thence E. with the line of No. 36, reaching a pine on the side of a hill at 90 poles, corner 2; thence N. along the face of mountain, reaching corner at 120 poles, a black gum, corner 3; thence W. along the face of mountain 90 poles to a Spanish oak on side of mountain, cor. 4; thence S. along the face of mountain 120 poles to the beginning with the line of No. 32, containing sixty-seven acres.

19. Tract number 87, in district number nine, in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning on a chestnut N. W. corner of 88, from which a white oak 12 in. dia. bears N. 24 E. 40 links dist., and a chestnut 38 in. dia. bears S. 16 E. 41 links dist.; thence W. crossing W. fork of Mountain Creek at 40 poles, reaching a hickory at 154 poles, corner in a hollow; thence S. 160 poles to a white oak, cor. No. 3, standing 74 poles N. from N. E. corner of No. 90; thence E. 154 poles to a small B. oak, corner 4 and corner No. 88; thence N., crossing Mountain Creek at 42 poles, running over rolling land 160 poles with the line of No. 88 to the beginning, containing one hundred and fifty-four acres.

20. Tract number 88, in district number nine, in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning on a B. oak S. E. cor. of No. 87, from which a B. oak 6 in. dia. bears S. 57 W. 15 links distant, and a B. oak 12 in. dia. bears N. 67 E. 13 links dist.; thence E. 104 poles to a small B. oak for cor. No. 2; thence N. 160 poles to a small white oak, corner No. 3; thence W. 15 poles to a mountain creek, reaching a chestnut at 140 poles near the foot of said hill, corner No. 4; thence S. with the line of No. 87, crossing Mountain Creek at 118 poles, reaching the beginning at 160 poles, containing one hundred and four acres.

21. Tract number 92, in district number nine, in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning at a B. oak N. E. cor. of No. 84, from which a Spanish oak 18 in. dia. bears N. 3 E. 38 links distant, and a B. oak 8 in. dia. bears S. 85 W. 20 links dist.; thence E. with the line of No. 85 crossing Sweetwater Creek at six poles, reaching cor. No. 2, a B. oak near the top of mountain, at 126 poles (formerly 120 poles); thence N. along the face of mountain, crossing top of mountain at 140 poles, reaching corner No. 3 at 171 poles, a Spanish oak in a cove; thence W., ascending a mountain, crossing top of mountain at 26 poles, reaching cor. at 126 poles; thence S. descending mountain 171 poles to the beginning, containing (134) one hundred and thirty-four acres.

22. Tract number 90, in district number nine, in Graham Co., N. C., bounded and more particularly described as follows, viz.: Beginning on a black oak N. E. corner

of No. 100, from which a post oak 14 in. dia. bears S. 88 E. 85 links dist., and a white oak 20 in. dia. bears N. 61 E. 79 links dist.; thence N. 46 poles to a locust on the side of a hill for corner No. 2; thence E. reaching corner No. 3, a chestnut, at 208 poles; thence S. over rolling land 108 poles to a B. jack, S. W. corner of No. 90, for cor. No. 4 with line of No. 86; thence W. 208 poles to a hickory for corner No. 5; thence N. 62 poles to the beginning, containing one hundred and forty-one acres.

23. Tract number 103, in district number nine, in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning on a white oak in a field N. W. cor. of No. 101 (no witness trees available); thence N. with district line ascending hill, reaching top at 44 poles, at 105 poles reaching corner No. 2, a small black oak on hillside, from which a black oak 6 in. dia. bears N. 37 W. 26 links dist., and a chestnut 8 in. dia. bears S. 82 E. 45 links distant; thence E. through flat land 146 poles to a black oak for cor. No. 3 on point of a ridge; thence S. 105 poles, reaching post oak for corner No. 4 in a line of No. 101; thence west with the line of No. 101 146 poles to the beginning, containing ninety-five acres.

24. Tract number eight, in district number ten, in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning on a hickory the S. E. cor. of No. 20 and S. W. corner of No. 21, from which a hickory 10 in. dia. bears S. 87 W. 50 links distant and a B. oak 18 in. dia. bears N. 63 W. 54 links dist.; thence S. with the line of No. 19, reaching Cheoih River at 100 poles, 8 poles wide runs N. W., reaching at 226 poles, corner a hickory near top of mountain; thence W. with the line of No. 7 along the side of a mountain, crossing a branch at 96 poles 8 links wide, and runs N., bear. cor. running through a field, ascending a high ridge at 120 poles, summit at 200 poles, then along said ridge to 284 poles to a small chestnut oak, corner No. 3, on point of ridge; thence N. descending ridge, reaching a branch at 72 poles 10 links wide, runs E. crossing a branch 12 links wide, reaching at 226 poles corner, a hickory; thence E. 284 poles to the beginning, containing four hundred and one acres.

25. Tract number seven, in district number one, in Cherokee County, N. C., bounded and more particularly described as follows, viz: Beginning at a hickory at the foot of a mountain near a branch from which a hickory 14 in. dia. bears N. 38 W. 20 links dist., and a white oak 16 in. dia. bears S. 15 W. 22 links dis.; thence N. 200 poles to a b. oak fallen corner on a hickory; thence W. 156 poles to a Spanish oak on top of a mountain (fallen), set a post, thence S. 200 poles to a b. oak corner, thence E. 156 poles to the beginning, containing one hundred and ninety-five acres.

26. Tract number 56 in district number one, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a black jack, N. W. cor. of No. 55, from which a b. jack 9 in. dia. bears N. 66 W. 25 links dist., and a b. gum 6 in. dia. bears S. 1 W. 10 links dist.; thence W. with the line of No. 61, 265 poles to a stake and pointers, cor. on a b. oak on line of No. 59; thence S. 190 poles, passing corner of No. 59 at 86 poles, corner on a chestnut oak, No. 3; thence E. with the line of No. 17, 265 poles to a pine; thence N. with line of No. 55, 190 poles to the beginning, containing three hundred and fourteen acres.

27. Tract No. 57, in district number one, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning on a black jack, on a ridge, the beginning of No. 56, from which a b. jack 9 in. dia. bears N. 66 W. 25 links dist., and a black gum 6 in. dia. bears N. 1 W. 10 links dist.; thence N. with the line No. 61, 170 poles to two hickories in a flat; thence E. with the line of No. 58, 220 poles to a hickory on a ridge (fallen) corner on a black gum; thence S. with the line of No. 51, 170 poles to a black oak, corner 4, and beginning corner of No. 55, thence W. with the line of No. 55, 220 poles to the beginning, containing (233) two hundred and thirty-three acres.

28. Tract No. 58 in district number one, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a b. oak, on point of a ridge, the beginning cor. of 52, from which a white oak 8 in. dia. bears N. 85 W. 10 links dist.; thence W. 220 poles to a stake, corner on a white oak; thence S. 206 poles, to two small hickories in a flat; thence with the line of No. 57, 220 poles to a hickory, N. E. corner of No. 57 (fallen) corner on a black gum; thence N. with a line of No. 52, 206 poles to the beginning, containing (283) two hundred and eighty-three acres.

29. Tract No. 59, in district number one, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a post oak, N. E. cor. of No. 9, from which a p. oak, 15 in. dia., bears N. 65 E. 45 links dist., and a hickory 6 in. dia., bears N. 27 W. 20 links dis.; thence E. with the line of No. 60, 90 poles to a hickory in a hollow near a branch; thence S. with the lines of Nos. 61 and 56, 176 poles to a post in a line of No. 56, passing corner of 61 at 90 poles; thence W. with the line 90 poles to a b. oak near a branch; thence N. with the line of No. 9, 176 poles to the beginning, containing ninety-two (92) acres.

30. Tract No. 60, in district number one, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a hickory in a hollow in a line of No. 61, from which a hickory 12 in. dia. bears S. 50 E. 40 links dist. and a Spanish oak 15 in. dia., bears N. 41 E. 45 links dist.; thence N. with the line of No. 61, 80 poles to a

white oak on the S. bank of a branch, corner 2; thence W. 30 poles to a mountain birch on the S. bank of Valley River, at the mouth of a branch, cor. 3; thence down said river as it meanders, S. 40 W. 36 poles; S. 65 W. 14 poles; N. 65 W. 25 poles; N. 32 W. 68 poles; N. 62 W. 13 poles; W. 15 poles; S. 37 W. 46 poles; S. 21 W. 58 poles; S. 31 poles to a white oak on bank of said river (fallen), cor. on a locust; thence E. with the lines Nos. 9 and 59, 204 poles to the beginning, containing ninety-six acres.

31. Tract No. 96, in district number one, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a chestnut, the beginning cor. of No. 95, from which a b. gum 14 in. dia. bears N. 30 E. 42 links dist., and a red oak 14 in. dia. bears N. 8 W. 32 links dist.; thence E. with the line of No. 95, 86 poles to a pine on a knoll; thence N. with the line of No. 98, 126 poles to a b. oak, N. W. cor. of No. 98; thence W. with the line of No. 99, 86 poles to a corner from which a chestnut oak 12 in. dia. bears N. 24 W. 52 links dist., and a pine 12 in. dia. bears N. 83 E. 40 links dist.; thence S. 146 poles to the beginning, containing sixty-seven acres.

32. Tract No. 61, in district number one, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning on a white oak, N. E. cor. of No. 60, from which a chestnut 6 in. dia. bears S. 14 W. 15 links dist., and a maple 6 in. dia. bears N. 26 W. 20 links dist.; thence S. with the lines of Nos. 60 and 59, 170 poles to a stake, cor. on a b. oak; thence E. with the line of No. 56, 265 poles to a black-jack, cor. 3, and beginning of Nos. 56 and 57; thence N. with the line of No. 57, 170 poles to two hickorys in a field, cor. 4, and N. W. cor. of No. 57; thence W. 265 poles to the beginning, containing two hundred and eighty-one acres.

33. Tract No. 97, in district number one, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a pine on a knoll, the beginning of No. 98, from which a white oak 15 in. dia. bears N. 2 E. 34 links distant and a white oak 20 in. dia. bears N. 55 E. 30 links dist., and a hickory 12 in. dia. bears S. 47 E. 27 links dist.; thence S. with the line of No. 95, 6 poles to Vengeance Creek, reaching cor. at 116 poles a white oak S. E. cor. of No. 95; thence E. 108 poles to a maple, cor. No. 3; thence N. 116 poles to a beech, cor. 4 and S. E. cor. of No. 98; thence W. with the line of No. 98, 108 poles to the beginning, containing seventy-eight acres.

34. Tract No. 99, in district number one, in Cherokee County, N. C., bounded and more particularly described as follows, viz: Beginning on a black oak (fallen) the beginning of No. 93, from which a b. oak 12 in. dia. bears N. 15 E. 33 links dist., and a post oak 6 in. dia. bears N. 41 W. 41 links dist.; thence N. 96 poles to a b. oak, the beginning cor. of No. 100; thence E. with the line of No. 100, 200 poles to a stake cor. on maple on N. bank of Vengeance Creek; thence S. 18 W. 98 poles to a black oak N. E. cor. of No. 96; thence W. 178 poles to the beginning, containing one hundred and fifteen acres.

35. Tract No. 100, in district No. one, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a b. oak NW. cor. of No. 99 (no witness trees available); then N. 114 poles to a b. jack in district line No. 7, from which a pine 12 in. dia. bears N. 67 E. 17 links dist., and a pine 12 in. dia. bears N. 32 W. 17 links dist.; thence E. 245 poles to a b. oak with the district line No. 7 (cor. not found, made on a black oak); thence S. 18 W. 120 poles to a maple on the N. bank of Vengeance Creek; thence W. with line of No. 99, 206 poles to the beginning, containing one hundred and sixty acres.

36. Tract number fifteen, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a chestnut N. W. cor. of No. 9, from which a hickory 12 in. dia. bears S. 31 E. 37 links dist., and a chestnut 14 in. dia. N. 45 W. 3 links dist.; thence W. 75 poles to cor. on a chestnut oak, cor. 2; thence S. 126 poles to a stake N. W. cor. of No. 8; thence E. with the line of No. 8, 75 poles to a Spanish oak, formerly a stake; thence W. with the line of No. 9, 126 poles to the beginning, containing fifty-nine acres.

37. Tract number sixteen, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a locust on top of a mountain between Valley River and Hanging Dog Creek in the line of No. 15, from which a hickory 12 in. dia. bears N. 15 W. 11 links dist. and a b. oak, 16 in. dia. bears N. 32 E. 38 links dist.; thence W. 15 poles to a chestnut oak, corner 2; thence N. 160 poles to a stake corner on a chestnut, cor. 3; thence E. 75 poles to a sourwood N. W. cor. of No. 14; thence S. with the line of No. 14, 160 poles to cor., from which a hickory 12 in. dia. bears S. 31 E. 37 links dist., and a chestnut 14 in. dia. bears N. 45 W. 3 links dist.; thence W. with the line of No. 15, 60 poles to the beginning, containing 75 acres.

38. Tract number thirty-two, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a hickory 20 poles N. of S. W. cor. of No. 34, from which a b. jack 8 in. dia. bears S. 27 E. 23 links dist., and a locust 9 in. dia. bears N. 57 E. 20 links distant; thence N. 200 poles to a large white pine near Calvert's Creek; thence W. 198 poles to corner formerly a stake, corner on a hickory; thence S. 200 poles, cor. on top of a ridge N. W. cor. of No. 31; thence E. 198 poles to the beginning, with the line of No. 31, containing two hundred and forty-seven acres.

39. Tract number thirty-four, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a red oak N. E. cor. of No. 33, from which a b. oak 6 in. bears S. 67 E. 44 links dist., and a red oak 6 in. dia. bears S. 15 E. 13 links dist.; thence N. 200 poles to a black jack, corner cut down, corner on a small black oak on a ridge; thence 174 poles to a b. oak on side of a hill near Calvard's Creek, S. W. cor. 35; thence S. 200 poles corner on a hickory, corner of No. 33; thence E. 174 poles to the beginning, containing two hundred and seventeen acres.

40. Tract number thirty-five, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning on a b. oak N. W. cor. of No. 34, on the side of a hill near a creek from which a Spanish oak 8 in. dia. bears S. 32 E. 27 links distant, and a chestnut 36 in. dia. bears S. 13 W. 32 links dist., and a hickory 12 in. dia. bears S. 85 W. 40 links dist; thence N. 189 poles to a b. oak (fallen) corner on a poplar; thence E. 174 poles to a poplar in an old crossing; thence S. 189 poles to a black jack N. E. cor. No. 34, cut down, cor. on a small b. oak on a ridge; thence W. with the line of No. 34, 174 poles to the beginning, containing two hundred and five acres.

41. Tract number forty-eight, in district number 6, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning on a Spanish oak S. W. of No. 62 (not found), cor. on a b. oak, N. W. cor. of No. 57, from which a chestnut oak 24 in. dia. bears N. 1 W. 42 links dist., and a hickory 9 in. dia. bears S. 15 E. 35 links dist.; thence N. with the line of No. 62, 112 poles to a hickory on a high hill; thence W. 124 poles corner a black jack, found to be a black gum, on the E. bank of Fodder's Creek in the line of 59; thence S. with the line of 59, 112 poles, corner a locust (formerly a stake), N. W. cor. of tract 53; thence E. 124 poles to the beginning with the line of No. 53, containing eighty-six acres.

42. Tract fifty-three, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning on a post oak N. E. corner of No. 53, from which a b. oak 10 in. dia. bears S. 15 E. 35 links dist. and a hickory 12 in. dia. bears S. 27 W. 32 links distant; thence N. 160 poles to a black oak, cor. No. 2, formerly a Spanish oak; thence W. with the line of No. 48, 124 poles to a locust cor. No. 3, and S. W. cor. of No. 48; thence S. 160 poles to a hickory (fallen) N. W. corner of No. 52, cor. on a small white oak; thence E. with the line of No. 52, 124 poles to the beginning, containing one hundred and twenty-four acres.

43. Tract number fifty-seven, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning on a maple on the W. bank of Fodder's Creek, from which a white oak six in. dia. bears N. 56 W. 12 links dist. and a white oak 6 in. dia. bears N. 22, E. 9 links dist; thence N. 55 poles to a hickory on W. bank of said creek; thence W. with the line of No. 62, 176 poles to a b. oak, cor. 3, and S. E. cor. of 48; thence S. with the line of No. 53, 55 poles to a post oak found to be black oak; thence E. 176 poles to the beginning, containing sixty acres.

44. Tract number fifty-nine, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a maple at 16 poles N. from N. W. cor. of No. 48, from which a white oak 36 in. dia. bears S. W. 14 links distant, and a hickory 10 in. dia. bears N. 30 E. 23 links dist; thence W. 100 poles corner a chestnut oak, formerly a stake. Thence S. 97 poles cor. on a large poplar in a cove, formerly a stake; thence E. 100 poles to cor. a black jack (not found) set a post in the line of 48; thence N. with said line 97 poles to the beginning, containing sixty acres.

45. Tract number sixty-four, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a b. oak N. E. cor. of No. 63, from which a chestnut oak, 9 in. dia. bears S. 40 W. 3 links dist., and a chestnut oak, 20 in. dia. bears N. 65 W. 30 links dist; thence N. 114 poles to cor. a b. oak on top of a ridge; thence W. 121 poles to corner on a beech, formerly a stake, cor. 3; thence S. 114 poles to corner; thence E. with the line of No. 63 121 poles to the beginning, containing eighty-six acres.

46. Tract number sixty-five, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz.: Beginning on a white oak corner of No. 75, from which a locust 8 in. dia. bears N. 38 W. 50 links dist. and a Spanish oak 15 in. dia. bears S. 5 W. 23 links dist; thence N. 76 poles in line of No. 64 near the top of hill; thence W. 176 poles to cor. near top of mountain cor. on a chestnut, formerly a stake; thence S. 76 poles to cor., corner on a chestnut N. W. cor. of No. 75; thence E. with the line of No. 75, 176 poles to the beginning, containing eighty acres.

47. Tract number ninety-three, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a pine N. E. cor. of No. 92, from which a hickory 6 in. dia. bears N. 35 W. 14 links dist., and a post oak 6 in. dia. bears N. 73 W. 17 links dist., and a pine 20 in. dia. bears S. 45 W. 27 links dist.; thence N. 180 poles to cor. on a locust on top of a ridge; thence W. 105 poles to cor.,

fallen, cor. on a black gum; thence S. 180 poles to corner on a hickory on a small branch; thence E. 105 poles to the beginning, containing one hundred and eight acres. "The beginning of this tract is in the line of No. 95, being N. from S. W. cor. 164 poles."

48. Tract number ninety-five, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning on a black gum in a small branch, from which a white oak 6 in. dia. bears N. 78 E. 20 links dist., and a dogwood 6 in. dia. bears S. 65 E. 25 links dist., and a white oak 6 in. dia. bears S. 81 W. 34 links dist.; thence N. 39 W. 250 poles to cor. No. 2, a b. oak on top of ridge; thence W. 124 poles to corner, a stake, corner on a hickory in line of No. 93; thence S. with the line of No. 93 98 poles to the beginning, cor. of No. 93, reaching cor. at 260 poles, a black jack (cut down) cor. on a black jack, corner 3; thence N. 81 E. 158 poles to cor. on top of hill, corner on a hickory, corner 4 (formerly a b. jack); thence N. 68 E. 138 poles to the beginning, containing three hundred and thirty-one acres.

49. Tract number one hundred and five, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a hickory in a cove (fallen) in a line of No. 115, cor. on a white oak, from which a white oak 20 in. dia. bears N. 85 E. 18 links dist., and a b. oak 9 in. dia. bears N. 10 E. 46 links dist.; thence N. 69 E. 90 poles to cor. on a maple; thence S. 21 E. 130 poles cor. on a pine N. E. cor. of No. 10; thence S. 69 W. with the line of No. 101, 90 poles to N. W. cor. of 101 on top of a hill, a pine (fallen) cor. on a black gum; thence N. 21 W. with the lines of Nos. 102 and 115, 130 poles to the beginning, containing seventy-three acres.

50. Tract number one hundred and fifteen, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning on a chestnut oak in the head of a hollow, from which a chestnut 24 in. dia. bears S. 60 E. 50 links dist., and a chestnut 36 in. dia. bears N. 80 W. 50 links dist.; thence N. 21 W. 100 poles to a pine; thence N. 69 E. 100 poles to corner, a stake, cor. made on a white oak; thence S. 21 E. 100 poles to corner on a chestnut oak corner of No. 102; thence S. 69 W. 100 poles with the line of No. 102 to the beginning, containing sixty-two acres.

51. Tract number one hundred and sixteen, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning on a pine, N. W. cor. of No. 115, from which a white oak 8 in. dia. bears N. 8 W. 40 links distant, and a b. oak 16 ins. dia. bears S. 10 E. 50 links distant; thence S. 69 W. 90 poles to a b. jack on top of a ridge (formerly) a stake; thence S. 21 E. 100 poles to a stake; thence N. 69 E. 90 poles to corner, the beginning of No. 115; thence N. 21 W. with the line of No. 115, 100 poles to the beginning, containing fifty-six acres.

52. The strip of land adjoining the Qualla boundary or reserve, on the south, in Jackson Co., N. C., known as the "Thomas 500-acre survey," beginning at a post set by M. S. Temple, U. S. deputy surveyor, at the ford of Socco Creek, and running thence easterly along the water divide of the ridge S. of Socco Creek until it intersects the Indian boundary at the top of said range opposite Echota mission, and including all the land between the said water divide and the Indian boundary, bounded and more particularly described as follows, viz: & beginning at a locust post at the ford of Socco Creek, on the N. W. bank of said creek, where the road leading from Birdtown to Quallatown crosses said creek, said post being N. 3 W. 2 poles from the edge of the water; thence S. 3 E. 21 poles to a stake 12 links N. of a large red oak marked I. B.; thence S. 19 E. 13 poles; thence S. 45 E. 17 poles; thence S. 61 E. 16 poles; thence N. 76 E. 29 poles to 66 mile station in a mound in line of Indian boundary, continue N. 76 E. 34 poles; thence S. 39 E. 18 perches; thence S. 36 W. 22 poles to a small b. oak, I. B.; thence S. 16 W. 18 poles, two sourwoods I. B. on the side of a ridge; thence S. 39 E. 56 poles; thence S. 51 E. 11 poles, set a post for 66½ mile station in mound with pits, continue S. 51 E. 24 poles; thence S. 89 E. 25 poles; thence S. 89 E. 7 poles to a post I. B.; thence N. 86 E. 32 poles leave field; thence N. 86 E. 28 poles; thence N. 57 E. 43 poles, set a post for 67 mile station in mound with pits, continue N. 57 E. 16 poles; thence S. 64 E. 40 poles; thence S. 79 E. 9 poles to a white oak 22 in. dia., marked I. B.; bear cor. 11 poles to a stake and rock on side of a mountain; thence S. 19 E. 16 poles; thence S. 84 E. 57 poles to a white oak 16 in. dia., I. B. bear cor., 10 poles to a post 67½ miles mile station, continue S. 84 E. 52 poles; thence N. 71 E. 17 poles, b. oak 27 in. dia., I. B.; thence N. 71 E. 23 poles; thence N. 45 E. 54 poles to a rock, formerly a white oak; thence S. 77 E. 14 poles 68 mile station post, continue S. 77 E. 24 poles; thence N. 76 E. 20 poles to a road leading from Waynesville to Quallatown, bear cor. 16 poles to a rock; thence S. 49 E. 14 poles; thence N. 76 E. 75 poles, a chestnut 16 in. dia., I. B. bear cor. 11 poles 68½ mile station post; continue N. 76 E. 94 poles; thence S. 74 E. 66 poles 69 mile station post; continue S. 74 E. 26 poles to a b. oak 36 in. dia., I. B. bear cor., 23 poles to a brook 5 links wide, bear cor. 55 poles to a small red oak on side of a mountain, former call 3 pines; thence S. 44 E. 56 poles, post of 69½ mile station, continue S. 44 E. 137 poles to a small chestnut on side of mountain; thence S. 87 W. 25 poles post, 70 mile station; continue thence S. 87 W. 160 poles post 70½ mile station; thence S.

87 W. 160 poles post of 71 mile station, continue S. 87 W. 45 poles to a small white oak N. 77 W. 115 poles, post of 71½ mile station, continue N. 12 W. 41 poles; thence W. 22 poles to a road running from Waynesville to Quallatown; thence W. 97 poles, post of 72 mile station, continue S. 60 W. 28 poles to a post oak 26 in. dia. I. B.; thence S. 35 W. 37 poles to a white oak 26 in. dia. I. B. bear cor. 9 poles to a sourwood in the Meggs and Freeman line. Closing, beginning on a double white oak on top of a divide in old boundary line, from which a post oak 7 in. dia. bears S. 42 W. 14 links dist. and a b. oak 6 in. dia. bears N. 40 E., 11 links dist. Here leave the boundary line S. 34 E. 40 poles to a post oak on the divide; thence S. 44 E. 164 poles to a white oak on top of a high knob; thence N. 77 E. 50 poles to a Spanish oak on divide; thence N. 56 E. 23 poles to a Spanish oak on top of divide; thence N. 83 E. 24 poles, set a post on top of a knob from which a Spanish oak 6 in. dia., bears S. 73 W. 42 links dist., and a Spanish oak 14 in. dia., bears N. 50 E. 34 links dist.; thence N. 28 E. 10 poles to a small b. oak on top of divide; thence N. 83 E. 41 poles to a b. oak on top of divide near where the boundary lines crosses the divide; thence S. 50 E. leaving divide 143 poles to a small white oak near L. L. Sherrill's house; thence S. 22 E. 20 poles to a small sourwood cor. of old boundary and Meggs and Freeman's line. This tract contains four hundred and one and one-quarter acres after deducting the number of acres of land within this tract awarded by Barringer, Dillard, and Ruffin, arbitrators (in the suit of the Eastern Band of Cherokees *vs.* W. H. Thomas *et al.*, in the U. S. circuit court for the western dist. of North Carolina, at November term, 1874), to the heirs of Charlie Hornbuckle, Chu-lo-gu-lah (or Cloud), Sa-lo-lu-netah (or Young Squirrel), Wilson Reed, and Jenne Reed, according to the survey of said individual tracts in 1875, by M. S. Temple, U. S. deputy surveyor, and embraced in his report to the Commissioner of the U. S. General Land Office dated January 13, 1876.

53. The land awarded to "Too-nah-lu-yah" (this is Too-nah-lu-keh or "Stump"), situate on San-teet-la Creek and known as the "Stump tract," in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning at a hickory in the line of No. 20 running N. 100 poles to a hickory; thence west 160 poles to a stake; thence south 100 poles to a stake in the line of No. 8, then with that line East 160 poles to beginning, containing one hundred acres.

54. The land embraced in State grant No. 1747, in district number nine, in Graham Co., N. C., on the waters of Snowbird Creek, bounded and more particularly described as follows, viz: Beginning on a large chestnut in the line of No. 362 and runs N. 53 W. 180 poles to a stake; thence S. 80 poles to a stake; thence S. 53 E. 180 poles to a stake; thence N. 90 poles to the beginning, containing one hundred acres.

55. The lot or tract of land joining the lands of Mercer Fain on the N. side of Valley River, being tract No. 16, in district number 6, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a locust on top of mountain between Valley River and Hanging Dog in the line of No. 15, from which a hickory 12 in. dia. bears N. 15 W. 11 links dist., and a b. oak 16 in. dia. bears N. 32 E. 38 links dist.; thence W. 15 poles to a chestnut oak, cor. 2, thence N. 160 poles to a stake, cor. on a chestnut, cor. 3; thence E. 75 poles to a sourwood N. W. cor. of No. 14; thence S. with the line of No. 14 160 poles to cor.; thence W. with the line of No. 15 sixty poles to beginning, containing seventy-five acres.

56. One tract of six hundred and forty acres lying on the south side of the Tennessee River at the Culertson Ford in Swaine Co., N. C., bounded and more particularly described as follows, viz: Beginning on black oak on bank of river 4 poles below the Ft. Lindsay Ford, running thence with the old treaty line S. 65 E. 92 poles to a turn; thence S. 35 E. 66 poles to a turn on the ridge; thence S. 25 W. 24 poles to a turn; thence S. 75 E. 76 poles to a turn in the ridge; thence S. 40 E. 24 poles to a turn in the ridge; thence N. 50 E. 36 poles to a turn; thence S. 70 E. 48 poles to a turn; thence S. 25 E. 34 poles to a Spanish oak on the said treaty line; thence N. 50 E. 100 poles to a turn; thence S. 45 E. 360 poles to a stake on said line; thence 370 poles to a stake bank of Tennessee River; thence down said river with its meanders 590 poles to the beginning, containing six hundred and forty acres, be the same more or less, according to a survey made in 1838.

57. One fifty-acre tract lying on the east side of Newton's Mill Creek joining land of Uriah Cooper and the Qualla boundary, in Swaine Co., N. C., bounded and more particularly described as follows, viz: Beginning on the E. bank of said creek at a white oak sapling on line of No. 89; thence E. with said line of No. 89 85 poles to a hickory; thence N. 30 E. 52 poles to a white oak on the side of a ridge cor. of No. 91; thence N. with line of No. 91 58 poles to a hickory; thence E. 86 poles to a maple on the E. bank of said Newton's Mill Creek; thence down with the meanders of the creek to the beginning, containing fifty acres.

58. One piece or parcel of land in the Cathcart or Brown entry outside of the Qualla boundary and joining the same, in Swain Co., N. C., bounded, more particularly described, as follows, viz: Beginning at the post where the northwest line of the Cathcart or Brown survey crosses the Qualla boundary line, said post being N. 60 W. 5

chains and 37 links from the 34th-mile station in the Qualla boundary line, from which a white oak 15 in. dia. bears N. 50 E. 20 links dist., and a Spanish oak 6 in. dia. bears S. 60 W. 29 links dist.; a white oak 12 in. dia. bears S. 36 links dist.; a chestnut 6 in. dia. bears S. 10 E. 27 links dist.; a Spanish oak 6 in. dia. bears S. 40 E. 25 links dist.; a locust 6 in. dia. bears N. 28 links dist; thence S. 47½ W., formerly S. 45 W. 562 poles with said Cathcart line to a stake in said line; thence S. 42½ east 575 poles to the Qualla boundary line between the 37 and 36½ mile stations in said line; thence in a northerly direction with the said Qualla boundary line to the beginning, containing twelve hundred and thirty (1,230) acres.

59. One tract embracing the "Amanda Gaither Cove," joining Scroop Enloe and W. H. Thomas' lands and Qualla boundary in Jackson Co., N. C., bounded and more particularly described as follows, viz: Beginning at a post on top of the ridge which forms the western boundary of said cove at the point where Ah-ma-cha-na's line crosses said ridge running S. 22 E. 24 poles to a chestnut oak corner of I. B.; passing 63½ mile station at 3 poles; thence S. 40 E. 24 poles to a Spanish oak cor. I. B.; thence S. 16 W. 62 poles to a locust corner of I. B.; then S. 43 W. 60 poles to a b. oak, passing the 63 mile station at 52 poles; then with the top of main mountain S. 40 E. 49 poles to a hickory on top of mountain; then down the ridge which forms the eastern boundary of said cove N. 63 E. 20 poles to a stake N. 88 E. 14 poles to a large c. oak, N. 52 E. 36 poles to S. oak; then N. 50 E. 56 poles to a b. gum, N. 27 E. 20 poles to a stake; then S. 78 E. 12 poles to a S. oak, N. 72 E. 10 poles to a c. oak in Enloe's line; then with his line N. 34 W. 64 poles to a locust; then N. 45 E. 42 poles to a S. oak in I. B., crossing Soco at poles; then with I. B. N. 60 W. 82 poles to a post I. B.; then W. 6 poles to a stake crossing Soco; then down said creek as it meanders N. 55 W. 48 poles to the mouth of said creek; then down Ocona-Lufty River 58 poles to a watered oak corner of I. B.; then S. 28 E. 60 poles to a white walnut; then S. 28 W. 21 poles to a white oak; then S. 40 E. 10 poles to a S. oak; then S. 14 E. 6 poles to the beginning, containing one hundred and twenty-eight acres.

60. One tract known as the "Thomas Mill Tract," lying across Soco Creek, joining Qualla boundary, in Jackson Co., N. C., bounded and more particularly described as follows, viz: Beginning at a black oak on the ridge between Soco Creek and Ocona-Lufty River at a point where Scroop Enloe's line intersects the Indian boundary, and running with the boundary line 80 poles to a Spanish oak on the top of ridge, passing the 65 mile station at 26 poles; then with the top of said ridge N. 12 E. 38 poles to a stake; then N. 45 E. 18 poles to a stake corner of I. B.; then S. 70 E. 36 poles to a sycamore on the west bank of Soco Creek; then up the creek N. 25 E. 16 to the 65½ mile station; then E. 34 poles to a post at the ford of Soco; then S., crossing the creek, 70 poles to a S. oak on top of a knob corner of I. B. S. 22 E. 10 poles to a stake; then S. 60 E. 40 poles to corner of I. B.; then S. 65 W. 21 poles to the beginning, containing forty-three acres.

61. Entry five hundred and sixty, known as the "3,200-acre tract," lying on the S. side of the Tuckasegee River, in Swaine Co., N. C., joining lands of Abel Hyatt, Willgeeske's heirs, John Cooper, James Gibbs, and others, bounded and more particularly described as follows, viz: Beginning on a black walnut on the bank of a branch on the S. of Tuckasegee River opposite Mark Coleman's; runs thence N. 30 W. 72 poles to a white walnut on the bank of the river at the mouth of the falls branch, passing the falls at 20 poles; thence up with the meanders of Tuckasegee River on the S. side 980 poles to a water birch on the bank; thence N. 80 E., crossing the river 12 poles to a black gum on the N. bank, 18 poles below the falls at the upper end of J. M. Bird's farm; thence up with the meanders of the N. side 320 poles to a Spanish oak on the bank opposite a large island in the river; thence S. 20 E. crossing the river 20 poles to a large maple on the S. side of said river, the lower cor. of No. 19, Gibb's corner; thence with Gibb's line 274 poles to a large pine in the line of No. 90; Thence with that tract N. 55 W. 20 poles to a Spanish oak in a hollow; thence S. 15 W. 146 poles to a locust, passing three small branches; thence with the line of No. 91 S. 90 poles to a dogwood on the side of a hill; thence E. 22 poles to a birch at the S. W. corner of No. 91; thence S. 31 E. 176 poles to a white oak, the N. E. cor. of No. 1525; thence with said tract S. 70 W. 30 poles to a Spanish oak; thence S. 60 W. 156 poles to a stake cor. of 1525; thence S. 13 E. 234 poles to a Spanish oak cor. of two tracts, Nos. 95 and 97; thence N. 55 W. 200 poles to a scrubby chestnut oak near the top of a ridge; thence S. 75 W. 98 poles to a Spanish oak on a ridge; thence S. 30 W. 60 poles to a hickory; thence S. 48 E. 35 poles to a large chestnut near a branch, the beginning of No. 97; thence S. 65 W. 40 poles to a maple; thence S. 10 W. 80 poles to a Spanish oak in a cove; thence S. 75 E. 72 poles to a small black oak on a ridge; thence S. 30 W. 96 poles to a scrubby Spanish oak on top of a mountain; thence S. 85 W. 136 poles to a small black oak on the top of a ridge thence S. 30 W. 106 poles to a black oak on top of a ridge on a cliff known as the Rattle-snake Den; thence S. 15 W. 40 poles to a chestnut on a ridge in the old county line between Jackson and Macon; thence with the said old county line 820 poles to a small black oak on the top of the mountain S. 25 W. from Britton Medlin's, passing

the Sherrill Gap at 650 poles; thence leaving the old county line, running around lands of Brit. Medlin, Shuler, and Brendle, leaving them on the outside, N. 74 poles to a Spanish oak on the top of a ridge; thence N. 24 E. 58 poles to 3 large pines on the top of a ridge; thence N. 5 E. 155 poles to a large white oak near the top of a ridge; thence N. 75 E. 36 poles to a Spanish oak on a ridge; thence E. 72 poles to large black oak in Johnson Kirkland's line; thence S. 70 E. with Kirkland's line 32 poles to a poplar, Kirkland's corner; thence N. 25 E. 50 poles to a stake; thence S. 55 E. 34 poles to a scrubby hickory on mountain side in Wm. Kirkland's line; thence with that line W. 22 poles to a pine to Kirkland's corner; thence S. 64 poles to a pine; thence E. 126 poles to a bunch of small lynns on the creek bank; thence N. 64 poles to a small hickory and Spanish oak; thence W. 32 poles to a locust, beginning cor. of James Kirkland; thence N. 45 E. with James Kirkland's line 35 poles to a Spanish oak on the creek bank; thence S. 40 E. 144 poles to a large chestnut oak; thence N. 45 E. 128 poles to a black oak; thence N. 40 W. 68 poles to a Spanish oak; thence N. 85 E. 120 poles to a pine; thence N. 24 W. 105 poles to a black oak, corner of 1173, on the bank of a creek, in the line of No. 1172; thence with tract No. 1173 S. 75 E. 173 poles to a stake; thence N. 84 E. 63 poles to a stake; thence N. 58 W. 74 poles to two chestnut oaks; thence N. 58 W. 62 poles to a hickory; thence W. 30 poles to a chestnut oak; thence N. 90 poles to a black oak in a hollow; thence W. 68 poles to a small black oak in a hollow, cor. of tract No. 4825; thence with the line of that tract N. 52 poles to a small hickory; thence N. 45 W. 14 poles to a white oak below Baggs' Cove; thence N. 26 E. 66 poles to a large ash on the S. bank of Tuckaseege River; thence up with the meanders of the river 64 poles to a bell-wood; thence S. 31 E. 73 poles to the beginning, containing two thousand seven hundred and eighty acres. In this conveyance it is intended to convey only the lands embraced in said entry No. 560 agreeably to the State grant and survey thereof, which excluded deeded lands defined by metes and bounds within the boundary of said entry which belong mostly to the persons named above as owning joining lands, comprising eleven tracts, embracing 1,009 $\frac{1}{2}$ acres; then also excluding (320) three hundred and twenty acres from said entry No. 560, a survey of which has been ordered by the superior court of Swaine Co., N. C., to use and benefit of Sarah A. Burchfield, which said court confines to 320 acres joining Abel Hyatt's lands within the boundary of the grant from the State; also excluding one hundred acres on both sides of Skeekee's Branch, awarded by Barringer, Dillard, and Ruffin, arbitrators, October 23, 1874, to the heirs of an Indian named Littlejohn, leaving of said entry No. 560 two thousand seven hundred and eighty acres, and embraced in this indenture as aforesaid.

62. Tract number six, in district number twelve, in Swaine County, N. C., bounded and more particularly described as follows, viz: Beginning on a post oak the S. W. cor. of No. 4 and runs S. 8 W. 110 poles to a black oak in the gap of a ridge; thence S. 42 E. 54 poles to a pine on the bank of the Tennessee River; thence down the meanders of the river to persimmon on the bank of the river the upper corner of No. 3; thence N. 8 E. with that line 119 poles to a white oak; thence N. 82 W. 92 poles to the beginning, containing seventy-three acres.

63. Tract number nine in district number twelve in Swaine Co., N. C., bounded and more particularly described as follows, viz: Beginning on a post oak the N. W. cor. of No. 8 and runs S. 82 E. 166 poles to a stake on the bank of Tennessee River; thence up the river to a stake, the lower corner of No. 4; thence S. 8 W. 73 poles to a Spanish oak; thence N. 82 W. 220 poles to a black oak; thence N. 8 E. 115 poles to the beginning, containing one hundred and thirty acres.

64. Tract number ten, in district number twelve, in Swaine Co., N. C., bounded and more particularly described as follows, viz: Beginning on a white oak the N. W. cor. of No. 7 and runs N. 82 W. 80 poles to a Spanish oak; thence N. 8 E. 102 poles to a pine; thence S. 82 E. 80 poles to a stake and pointers, N. W. cor. of No. 9; thence S. 8 W. 102 poles to the beginning, containing fifty-one acres.

65. Tract number eleven, in district twelve, in Swaine Co., N. C., bounded and more particularly described as follows, viz: Beginning on a post oak and runs N. 82 W. 80 poles to a turkey oak; thence S. 8 W. 132 poles to a stake; thence S. 82 E. 80 poles to a Spanish oak, the S. W. cor. of No. 10; thence N. 8 E. 132 poles to the beginning, containing sixty-six acres.

66. Tract number thirteen, in district number twelve, in Swaine Co., N. C., bounded and more particularly described as follows, viz: Beginning on a beach on the S. E. bank of Tennessee River near the lower point of an island and runs S. 8 W. 42 poles to a black oak; thence S. 84 E. 42 poles to a black oak; thence S. 8 W. 33 poles to a black oak; thence S. 79 E. 68 poles to a chestnut on W. bank of Nantahala River 18 poles above its mouth; thence down the river passing its junction to the beginning, containing fifty-eight acres.

67. Tract number forty-one, in district number twelve, in Swaine Co., N. C., bounded and more particularly described as follows, viz: Beginning on a maple on the N. W. bank of Nantahala River at the lower point of an island and runs S. 46 W. 124 poles to a chestnut S. E. cor. of No. 40; thence S. 61 E. 120 poles to a stake;

thence N. 19 E. 70 poles to a Spanish oak on the bank of river; thence down the main northern sluice of the river to the beginning, containing sixty-five acres.

68. Tract number forty-four, in district number twelve, in Swain Co., N. C., bounded and more particularly described as follows, viz: Beginning on a chestnut S. E. cor. of No. 40, and runs S. 29 W. 160 poles to a Spanish oak; thence N. 61 W. 66 poles to a black gum; thence N. 29 E. 160 poles to a locust on the line of No. 40; thence S. 61 E. 66 poles to the beginning, containing sixty-six acres. The said several tracts herebefore mentioned containing in the aggregate fifteen thousand two hundred and eleven and one-fourth acres more or less.

Together with all the improvements, ways, easements, rights, privileges, appurtenances, and hereditaments to same belonging or in anywise appertaining, and all the remainders, reversions, rents, issues, and profits thereof; all the estate, right, title, interest, claim, and demand whatsoever, either at law or in equity, of the said parties of the first part, of, in, to, or out of the said pieces or parcels of land and premises; to have and to hold the said pieces or parcels of land and premises, with the appurtenances, unto the said party of the second part, the Commissioner of Indian Affairs and his successors in office, as trustee for the use and benefit of the Eastern Band of Cherokee Indians of the State of North Carolina forever; and the said William Johnston and his wife, Lucinda M. Johnston, for themselves, their heirs, executors, and administrators, do hereby covenant, promise, and agree to and with the said party of the second part that they and their heirs shall and will warrant and forever defend the said pieces or parcels of land and premises and appurtenances free and discharged from the lawful claims of all parties claiming the same by, through, or under them, or either of them, and no further; and the said William L. Hilliard, as guardian aforesaid, does hereby convey all the right, title, and interest of the said William H. Thomas in and to said lands, and does hereby covenant, promise, and agree that he will warrant and forever defend the said pieces or parcels of land free and discharged from all claims of all persons claiming same by, through, or under him or said Thomas and his heirs, so far as he is authorized and required by virtue of his office as guardian under said order of the probate court of Jackson Co., N. C., and no further, and the said James W. Terrell and Thomas D. Johnston, for themselves as commissioners under the aforesaid award and order of court, and also as agents and attorneys as aforesaid, hereby covenant, promise, and agree that they will warrant and forever defend the said pieces or parcels of land free and discharged from the claims of all persons claiming same by, through, or under them, so far as they are authorized and required to do by virtue of their offices as commissioners and agents and attorneys aforesaid, and no further.

In testimony whereof the said parties of the first part have hereunto set their hands and seals this 14th day of August, A. D. 1880.

WM. JOHNSTON. [SEAL.]

LUCINDA M. JOHNSTON. [SEAL.]

W. L. HILLIARD, *Guardian*. [L. B.]

JAS. W. TERRELL,

Comm'r and Attorney for W. H. Thomas.

THOS. D. JOHNSTON, [SEAL.]

Comm'r & Att'y for W. H. Thomas.

In probate court.

NORTH CAROLINA,

Buncombe Co.:

I, E. W. Herndon, probate judge for county and State aforesaid, do hereby certify that William Johnston and wife, Lucinda M. Johnston, and William L. Hilliard, guardian of William H. Thomas, as aforesaid, of Buncombe Co., State of North Carolina, personally appeared before me this 14th day of August, 1880, and acknowledged the due execution of the annexed deed of conveyance, and the said Lucinda M. Johnston, being by me privately examined, separate and apart from her said husband, touching her voluntary execution of the same, doth state that she signed the same freely and voluntarily, without fear or compulsion of her said husband, or any other person, and that she doth still voluntarily assent thereto. Also, at the same time and place, personally appeared before me James W. Terrell, of Jackson Co., N. C., and Thomas D. Johnston, of Buncombe Co., N. C., commissioners and attorneys as aforesaid, and acknowledged the due execution of the annexed deed of conveyance. Therefore, let the same, with this certificate, be registered. Given under my hand and official seal.

[SEAL.]

E. W. HERNDON,
Judge of Probate.

In the probate court.

SWAIN COUNTY:

It is adjudged that the foregoing certificate of probate by E. W. Herndon, probate judge of Buncombe County, is correct and genuine. Therefore, let the deed, with the certificate of probate, be registered in Swain County. This Sept. 11th, 1880.

SAM. B. GIBSON,
Probate Judge.

REGISTER'S OFFICE OF SWAIN COUNTY, NORTH CAROLINA.

I, T. H. Parrish, register of deeds for said county, do certify that the foregoing deed, with certificates of probates, was duly registered in this office in book "B," No. "2," beginning on page 342, and ending on page 375, this the 14th day of Sept., A. D. 1880.

T. H. PARRISH,
Register of Deeds for said County.

In the probate court.

**STATE OF NORTH CAROLINA,
Jackson County:**

I, A. M. Parker, probate judge and clerk superior court of Jackson County, do adjudge from the certificate and seal of E. W. Herndon, clerk & probate judge of Buncombe County, North Carolina, to be correct. Therefore, let this deed with the certificates be registered this 1st day of October, 1880.

A. M. PARKER,
Probate Judge.

OFFICE OF REGISTER OF DEEDS, Oct. 1, 1880.

**STATE OF NORTH CAROLINA,
Jackson County:**

The within deed and certificates were this day duly registered on pages 374 to 403 inclusive, book G.

A. J. LONG,
Register of Deeds.

OFFICE JUDGE OF PROBATE.

**NORTH CAROLINA,
Graham County:**

It is adjudged that the foregoing certificate of probate by E. W. Herndon, probate judge of Buncombe County, is correct and genuine.

Therefore, let the said deed together with certificates of probate be registered in our county of Graham.

JOHN G. TATHAM,
Probate Judge, Graham County.

OFFICE OF REGISTER OF DEEDS.

**NORTH CAROLINA,
Graham County:**

I, W. F. Manney, reg. of deeds for and in said county of Graham, certify that the foregoing deed of conveyance together with certificates were duly registered in the register's office, in said county of Graham, in book B, commencing on page 1st and ending on page 32.

This October the 29, 1880.

W. F. MANNEY,
Register of Deeds, Graham County.

OFFICE OF JUDGE OF PROBATE, November 1, 1880.

**STATE OF NORTH CAROLINA,
Cherokee County:**

I, Jas. C. Axley, judge of probate in and for said county, do hereby adjudge that the foregoing deed is duly acknowledged.

Therefore let the same be registered.

Given under my hand at office in Murphy, the date above written.

JAS. C. AXLEY,
Judge of Probate.

The foregoing deed and certificates came to hand November the 1st, 1880, and were registered in book R, beginning on the page numbered 28, and ending on page 62.

J. W. HENNESO,
Register of Deeds, Cherokee County.

EXHIBIT H.

WAYNESVILLE, N. C., *January 2, 1893.*

SIR: Below I hand you statement showing the names of the alleged trespassers who occupy and claim lands adversely to the Eastern Band of Cherokee Indians inside of Cathcart tract, Yellow Hill, and Birdtown settlements of Qualla Boundary of land, together with three-fourths of the value fixed by me on each tract, which is a revised appraisalment in lieu of the one sent you with report dated November 25, 1893.

In fixing the value on each tract that was appraised by John M. Bird and E. G. Hyatt, of Jackson County, and S. B. Gipson, of Swain County, who by agreement appraised certain of the tracts of land of the parties herein named, I fixed the valuation according to their appraisalment, except as to one or two tracts in which I make a slight reduction.

First, as to the occupants inside of Cathcart tract:

W. A. Campbell, Waynesville P. O., Haywood Co., N. C., 10 acres of land in Soco Gap, 15 miles from R. R. at Waynesville, N. C., $\frac{1}{2}$ valuation.....	\$75.00
W. A. (or Aseph) Enloe, Ocona Lufta P. O., Swain Co., N. C., 640 acres of land in two tracts, 540-400 acres, where he lives in Big Cove on Raven's Fork of Ocona Lufta River, 19 miles from R. R. station, Whittier, N. C.; about 40 acres of the land cleared; good apple and peach orchards; fine body of timbered land; good one-story house with side sheds; $\frac{1}{2}$ valuation.....	1,350.00

Second, as to occupants in Birdtown settlement:

A. H. Hayes, Birdtown P. O., Swain Co., N. C., 102 acres where he lives, 5 miles from Whittier Station on R. R.; 50 acres of cleared land; good comfortable log house, sealed inside, containing 4 rooms; good stables; two tenement houses; tobacco barns; about 200 apple and peach trees; $\frac{1}{2}$ valuation.....	1,350.00
A. H. Hayes, same party as above, 93 $\frac{1}{2}$ acres, Childer's tract, 5 miles from R. R., Whittier Station; good land, about 30 acres of cleared land; good comfortable log house; good peach orchard on tract; $\frac{1}{2}$ valuation.....	875.00
M. E. Hayes, wife of A. H. Hayes, 76 acres of land known as Smith Baker place adjoining A. H. Hayes' home place, 5 $\frac{1}{2}$ miles from R. R. station above; contains about 30 acres of cleared land; [about 50 young bearing apple trees and about 50 bearing peach trees, [good frame tenant house with two rooms; one good log house; $\frac{1}{2}$ valuation.....	700.00
M. E. Hayes, wife of A. H. Hayes; and L. E. Neelon, wife of Henry Neelon; Birdtown P. O. Swain Co., N. C., 13 acres of land, that part of the Henry Neelon place that lies inside of Qualla Boundary; $\frac{1}{2}$ valuation.....	78.00
Uriah Cooper, Birdtown P. O., Swain Co., N. C., 50 acres of land adjoining his home tract, 6 miles from R. R. station as above; 10 acres of fresh cleared land on place; $\frac{1}{2}$ valuation.....	450.00
G. B. Cooper, Birdtown P. O., Swain Co., N. C., 10 acres of land adjoining Bradburn tract, 5 miles from above R. R. station, $\frac{1}{2}$ valuation.....	75.00
J. F. Bradburn and G. B. Cooper, Birdtown P. O., Swain Co., 130 acres where J. F. Bradburn now lives, 6 miles from above R. R. station, 40 acres of fresh cleared land; good tenant house; good peach orchard, some apple trees; very desirable farming land; $\frac{1}{2}$ valuation.....	1,600.00
David Wiggins, Birdtown P. O., Swain Co., N. C., 47 $\frac{1}{2}$ acres of land where he lives, adjoining lands of A. H. Hayes and others, 5 miles from R. R. station as above; 30 acres of cleared land; about 35 small apple trees; 2 tobacco barns; small tenant house; $\frac{1}{2}$ valuation.....	400.00
J. B. Keener, Birdtown P. O., Swain Co., N. C., 60 acres of land adjoining the lands of Nimrod Childers and others, 5 $\frac{1}{2}$ miles from R. R. station, as above; good country tenant house; 30 acres of cleared land, 10 acres good branch bottom; $\frac{1}{2}$ valuation.....	475.00
J. R. Kimsey, Birdtown P. O., Swain Co., N. C., 68 acres of land where he lives, adjoining lands of J. B. Keener and others, 6 miles from above R. R. station; 40 acres of cleared land, some fresh land but most of it badly worn; 80 of the finest apple trees in the country; common log house; good stables; 35 peach trees, 20 cherry trees; $\frac{1}{2}$ valuation.....	660.00
Elbert S. Keener, Birdtown P. O., Swain Co., N. C., 200 acres of land where he lives adjoining lands of J. R. Kimsey and others, about 6 $\frac{1}{2}$ miles from R. R. station, as above; 35 acres of fresh cleared land, two log tenant houses, two tobacco barns; cleared land is good strong land, the balance well timbered land for farming purposes; $\frac{1}{2}$ valuation.....	1,200.00

First, as to the occupants inside of Cathcart tract—Continued.

Bartlett Dills, Birdtown P. O., Swain Co., N. C., 47 acres of land adjoining lands of Allen Childers and others, $4\frac{1}{2}$ miles from R. R. station as above; very poor log house; 10 acres of fine branch bottom, the remainder fairly good upland; $\frac{3}{4}$ valuation	\$490.00
Allen Childers, Birdtown P. O., Swain Co., N. C., 7 acres of land, part of Admonia Keener tract, $4\frac{1}{2}$ miles from R. R. station as above; small log house and stables; $\frac{3}{4}$ valuation	75.00
Bloom Baker, Birdtown P. O., Swain Co., N. C.; 25 acres of land where he lives; $4\frac{1}{2}$ miles from R. R. station as above; small log house; 2 good tobacco barns; 20 acres of good, fresh cleared land; 30 young apple trees; good small tract of land; $\frac{3}{4}$ valuation	300.00
Ann Wilson, alias Ann Childers and three infant children to wit: Robert Lee Childers, age 8 years; Mary Childers, age 11 years; Eva Caldonia Childers, age 5 years, minor children of John Childers. The mother, Ann Wilson, has a dower in the land, and the three infants are owners in fee subject to the dower. 60 acres of land embracing two tracts, 5 miles from R. R. station as above; two good log houses, good land, and a fine apple orchard; about 30 acres of the land is cleared and is in a good state of cultivation; $\frac{3}{4}$ valuation	600.00
Nimrod Childers, Birdtown P. O., Swain Co., N. C., 94 acres of land in two tracts where he lives, 6 miles from R. R. station as above; good log house, 30 large thrifty bearing apple trees around house, 30 small apple trees, 40 acres of cleared land; $\frac{3}{4}$ valuation	750.00
R. A. Dills, Birdtown P. O., Swain Co., N. C., 12 acres of land adjoining Nimrod Childers, $\frac{3}{4}$ valuation	75.00
R. E. (or Rant) Gipson, col., Birdtown P. O., Swain Co., N. C., 35 acres of land adjoining the place occupied by John Lambert, 4 miles from R. R. station as above; 15 acres of cleared land, a few good apple trees; $\frac{3}{4}$ valuation	262.50
D. W. (or Bose) Love, col., Birdtown P. O. Swain Co., N. C., 134 acres of land adjoining land of Wash Gipson and others, 30 acres cleared; good log house; rough, but strong land; 20 young apple trees, 20 young peach trees; 7 miles from above R. R. station; $\frac{3}{4}$ valuation	500.00
Wash Gipson, col., Birdtown P. O., Swain Co., N. C., 35 acres of land where he lives, adjoining land of Bose Love and others; common log house, 20 acres of cleared land, 50 fine-bearing peach trees, 7 miles from above R. R. station; $\frac{3}{4}$ valuation	131.25
Tolitha Tomkins, col., Birdtown P. O., Swain Co., N. C., widow of Landon Tomkins, has dower in 50 acres of land known as the Landon Tomkins place which adjoins land of Wash. Gipson and others; Hattie Gipson, wife of James Gipson, aged 20 years; Nannie Tomkins, aged 19 years; Mattie Tomkins, aged 17 years, and Sallie Tomkins, aged 11 years, are the owners in fee of this tract of land, subject to the widow's dower. There are 12 acres of cleared land; good apple and peach orchard; common log house; 7 miles from the above R. R. station; $\frac{3}{4}$ valuation ..	225.00
Tolitha Tomkins, same party as above, 66 acres of land which adjoins Landon Tomkins' tract; 10 acres of cleared land, the balance forest land; 7 miles from above R. R. station; $\frac{3}{4}$ valuation	150.00
David Johnston, col., Birdtown P. O., Swain Co., N. C., 16 acres of land where he lives adjoining lands of Tolitha Tompkins and others, $\frac{3}{4}$ valuation	75.00
James Powell, col., Birdtown P. O., Swain Co., N. C., 42 acres of land where he lives; 3 acres of cleared land; common log house, 8 miles from above R. R. station; $\frac{3}{4}$ valuation	112.50
Thomas Mills, col., Birdtown P. O., Swain Co., N. C., 66 acres of land where he lives adjoining David Johnston and others; 20 acres of cleared land, two good log houses, good log stables, good young apple and peach orchards, $7\frac{1}{2}$ miles from above R. R. station; $\frac{3}{4}$ valuation	350.00
Thomas Mills, same party as above, 26 acres where James Dickey lives, adjoining Landon Tomkins' place and others; 5 acres of cleared land, small log house, 7 miles from above R. R. station; $\frac{3}{4}$ valuation	85.00
Thomas Mills, same party as above, 8 acres in another tract on opposite side of creek from James Dickey place; 7 miles from above R. R. station; $\frac{3}{4}$ valuation	30.00
Jake Bolt and Clark Turk, col., Birdtown P. O., Swain Co., N. C., 55 acres adjoining lands of Thomas Mills and others, 4 acres of fresh cleared land, small log house on it, 7 miles from R. R. station; $\frac{3}{4}$ valuation	150.00
J. H. Mosley, col., Birdtown P. O., Swain Co., N. C., 8 acres of land adjoining lands of Thomas Mills and others; 5 acres of cleared land, 10 good peach trees on it; 7 miles from above R. R. station; $\frac{3}{4}$ valuation	37.50

First, as to the occupants inside of Cathcart tract—Continued.

J. H. Mosley, same party as above, 47½ acres in two tracts: 32½—15 acres where he lives adjoining lands of Christenberry Howell and others; about 25 acres of cleared land, good apple and peach orchard, small log house on place, ¼ valuation	\$375. 00
Christenberry Howell, col., Birdtown P. O., Swain Co., N. C., 55 acres where he lives, 20 acres of cleared land, good small apple and peach orchard; common log house, good strong land, 7 miles from above R. R. station; ¼ valuation	375. 00
Christenberry Howell, same party as above, 15 acres purchased from Wash Gipson, part of Wash Gipson tract; ¼ valuation	37. 59
Baker Ayers, Birdtown P. O., Swain Co., N. C.; 103 acres in three tracts, 55-21-25 acres; 40 acres of cleared land which is fresh fertile land, a few apple and peach trees, good log house on place, and a good barn; 7½ miles from above R. R. station; ¼ valuation	600. 00
A. J. McNeese, Birdtown P. O., Swain Co., N. C.; 35 acres where he lives, adjoining Baker Ayres' land, about 12 acres cleared land, good log house, common stable, land rather steep, 6½ miles from above R. R. station; ¼ valuation	250. 00
Charley Parker, Birdtown P. O., Swain Co., N. C., 18 acres of land, known as the schoolhouse tract, lying on Ocona Lufta River; 14 acres of land cleared, 4 acres of fine bottom land, the balance good upland; this is a valuable tract of land, 3½ miles from above R. R. station; ¼ valuation	350. 00
Charley Parker, same party as above, 101 acres of land where he lives, embracing three tracts; 40 acres of cleared land, good log house on it, 20 acres of fresh cleared land, 250 young apple trees on place, 50 young bearing peach trees, 6 miles from R. R. station, as above; ¼ valuation	750. 00
Laura J. Thomas, Bryson City P. O., Swain Co., N. C., wife of J. H. Thomas, 85 acres of land on Ocona Lufta River, in Birdtown settlement, where George Sharp now lives, 4 miles from above R. R. station; ¼ valuation	300. 00
M. J. Birchfield, wife of J. R. Birchfield; R. P. Hyde, S. A. Hyde, M. M. Hyde, children of W. P. Hyde, the last three being minors; W. P. Hyde, their father is living, Cherokee P. O., Swain Co., N. C.; 280 acres of land in 6 tracts, known as the Temperance Thomas, and adjoining tracts lying on Ocona Lufta River, 50 acres Temperance Thomas tract and adjoining tracts, as follows: 10 acres, 60 acres, 40 acres, 100 acres, and 20 acres, two good log houses, 50 acres of cleared land, 18 acres of which is good bottom land, 4 miles from above R. R. station; ¼ valuation	1, 575. 00
Mary Birchfield, wife of Robert Birchfield, same party as above, 60 acres of land in two tracts, known as Grant place, 10 acres of cleared land, common log house on place, 7 miles from above R. R. station; ¼ valuation	150. 00
Coleman Seay, Birdtown P. O., Swain Co., N. C., 82 acres of land where he lives on mountain, 20 acres of cleared land, common log house on place, 7½ miles from above R. R. station; ¼ valuation	262. 50
John Woody, Bushnell P. O., Swain Co., N. C., 17 acres of land in Birdtown settlement, known as the Jim Powell place, 8 miles from above R. R. station; ¼ valuation	37. 50

Third, as to Yellow Hill settlement:

W. H. Queen, Ocona Lufta P. O., Swain Co., N. C., 51 acres of land adjoining the Holland Old Fields, part of the Moses Treadway land, some few acres cleared, very inferior house, 7 miles from above R. R. station; ¼ valuation	112. 50
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Fourth, as to occupants in Birdtown settlement in Jackson County:

E. Everett, admr., with the will annexed, of Clark Whittier, dec'd, Bryson City P. O., Swain Co., N. C., 97 acres of land where Redmond and Wright live, lying on Ocona Lufta River, two ordinary log houses, about 30 acres of cleared land, good peach orchard, 3 miles from above R. R. station; ¼ valuation	600. 00
50 acres adjoining above tract; ¼ valuation	300. 00
J. E. Martin, Whittier P. O., Swain Co., N. C., 50 acres of land where Black lives, 10 acres cleared, common log house, 3 miles from above R. R. station; ¼ valuation	262. 50
W. C. Martin, Cherokee P. O., Swain Co., N. C., 200 acres of land where W. C. Martin lives, on Ocona Lufta River, about 40 acres of cleared land, very inferior house, good land but badly cultivated, 5 miles from above R. R. station; ¼ valuation	1, 200. 00

Fourth, as to occupants in Birdtown settlement in Jackson county—
Continued.

W. P. Hyde, Cherokee P. O., Swain Co., N. C., 44 acres, Rant Gipson place, adjoining lands of Thomas Mills and others, $7\frac{1}{2}$ miles from above R. R. station; $\frac{3}{4}$ valuation.....	\$110.00
42 acres, the place where Jack Coleman, col., now lives, 8 miles from above R. R. station; $\frac{3}{4}$ valuation.....	160.00
23 acres, where Thad. Wilson lives, $3\frac{1}{2}$ miles from above R. R. station; $\frac{3}{4}$ valuation.....	100.00
J. D. Wiggins, guardian of minor heirs of Thomas Wiggins, deceased, Birdtown P. O., Swain Co., N. C., — acres of land on east side of Cooper (formerly Newton's) Mill Creek, 6 miles from Bryson City R. R. station; $\frac{3}{4}$ valuation.....	500.00
M. J. L. Blanton, Birdtown P. O., Swain Co., N. C., 80 acres of land on east side of Cooper's (formerly Newton's) Mill Creek, 6 miles from Bryson City R. R. station; $\frac{3}{4}$ valuation.....	400.00

This completes the list of occupants or alleged trespassers who are in the actual possession of the lands claimed by them, holding adversely to the Indians.

Below I give the names of those parties who claim lands, who hold State grants therefore or derive title from those who obtained grants from the State in Yellow Hill and Birdtown settlements, who are not in the actual possession of the lands claimed by them, but whose title papers are clouds upon the title of the Indians:

E. Everett, admr., with the will annexed, of Clark Whittier, decd., 200 acres of mountain land adjoining lands of Bose Love and others, $7\frac{1}{2}$ miles from above R. R. station; $\frac{3}{4}$ valuation.....	\$300.00
C. T. Sisk, Ocona Lufta P. O., Swain Co., N. C., 75 acres of land adjoining the Coleman Seay tract; $7\frac{1}{2}$ miles from Whittier R. R. station; $\frac{3}{4}$ valuation.....	168.75
W. A. (or Aseph) Enloe, guardian for J. S. Connor heirs, 150 acres of land on the Grassy Branch, 10 miles from above R. R. station; $\frac{3}{4}$ valuation....	225.00
J. H. Teague, Whittier P. O., Swain Co., N. C., 130 acres of land in Yellow Hill settlement in Jackson County, near the mouth of Soco Creek, being the lands now occupied by the tenants of ex-chief Smith, now decd, 7 miles from above R. R. station; allowed.....	200.00
A. Mingus, Wesley Enloe, and E. Everett, the two former of Ocona, Lufta P. O., Swain Co., N. C., the latter of Bryson City P. O., Swain Co., N. C., 200 acres of land in Big Cove settlement, on Raven's Fork of Ocona Lufta River, which is part of some grants that lap over the Hughes Ridge inside of Qualla boundary, which is mountain land, 20 miles from above R. R. station; $\frac{3}{4}$ valuation.....	400.00
H. S. Baker, Birdtown P. O., Swain Co., N. C., 21 acres of land in Jackson County, adjoining the place where Sallie Adams now lives, 2 miles from above R. R. station; $\frac{3}{4}$ valuation.....	84.00
R. O. Patterson, Governor's Island P. O., Swain Co., N. C., 42 acres of land adjoining the home place of Charley Parker, about 15 acres of cleared land, common log house on it, 7 miles from above R. R. station; $\frac{3}{4}$ valuation.....	250.00
W. P. Hyde, Cherokee P. O., Swain Co., N. C., 29 acres, Mark Blanton lands, adjoining the Patterson tract above, $7\frac{1}{2}$ miles from above R. R. station; $\frac{3}{4}$ valuation.....	60.00
10 acres, part of David Johnston tract; $\frac{3}{4}$ valuation.....	15.00
16 acres adjoining the home tract of Christenberry Howell, col., 7 miles from above R. R. Station; $\frac{3}{4}$ valuation.....	35.00
For all other interest of W. P. Hyde, either legal or equitable, contingent, or otherwise, inside of Qualla boundary, except such interest as he may have in what is known as the Ute Sherrell tract of land that was excepted in the award made by Dillard, Ruffin, and Barringer; allowed.....	120.00
S. A. Hyde, Cherokee P. O., Swain Co., N. C., 35 acres of land, part of Ned Notie tract, 6 miles from above R. R. Station; $\frac{3}{4}$ valuation.....	200.00

Total..... 24,552.00

The aggregate amounts to be paid to each of the parties hereinbefore named are as follows:

W. A. Campbell, Waynesville P. O., Haywood Co., N. C	\$75.00
W. A. Enloe, Ocona Lufta P. O., Swain Co., N. C	1,350.00
W. A. Enloe, for Connor heirs	225.00
A. H. Hayes, Birdtown P. O., Swain Co., N. C	2,225.00
M. E. Hayes, Birdtown P. O., Swain Co., N. C	700.00
M. E. Hayes and L. E. Nelson, same P. O.	78.00
Uriah Cooper, same P. O.	450.00
G. V. Cooper, same P. O.	75.00
J. F. Bradburn, same P. O.	1,600.00
David Wiggins, same P. O.	400.00
J. B. Keener, same P. O.	475.00
J. R. Kimsey, same P. O.	660.00
E. S. Keener, same P. O.	1,200.00
Bartlett Dills, same P. O.	490.00
Allen Childers, same P. O.	75.00
Bloom Baker, same P. O.	300.00
Ann Wilson (alias Ann Childers) and children, same P. O.	600.00
Nimrod Childers, same P. O.	750.00
R. A. Dills, same P. O.	75.00
Rant Gipson, same P. O.	262.50
D. W. (or Bose) Love, same P. O.	500.00
Wash Gipson, same P. O.	131.25
Tolitha Tompkins and children, same P. O.	225.00
Tolitha Tompkins, same P. O.	150.00
David Johnston, same P. O.	75.00
James Powell, same P. O.	112.50
Thomas Mills, same P. O.	465.00
Jake Bolt and Clark Turk, same P. O.	150.00
J. H. Moseley, same P. O.	412.50
Christenberry Howell, same P. O.	412.50
Baker Ayres, same P. O.	600.00
A. J. McNeese, same P. O.	250.00
Charley Parker, same P. O.	1,100.00
Laura J. Thomas, same P. O.	300.00
Mary J. Burchfield, R. P. Hyde, S. A. Hyde, and M. M. Hyde, Cherokee P. O., Swain Co., N. C	1,575.00
Mary Burchfield, Cherokee P. O., Swain Co., N. C	150.00
W. P. Hyde, Cherokee P. O., Swain Co., N. C	600.00
S. A. Hyde, Cherokee P. O., Swain Co., N. C	200.00
Coleman Seay, same P. O.	262.50
John Woody, Bushnell P. O., Swain Co., N. C	37.50
W. H. Queen, Ocona Lufta P. O., Swain Co., N. C	112.50
E. Everett, admr., with the will annexed of Clark Whittier, dec'd, Bryson City P. O., Swain Co., N. C	1,200.00
E. Everett, Wesley Enloe, and Abram Mingus, Ocona Lufta P. O., Swain Co., N. C	400.00
J. E. Martin, Whittier P. O., Swain Co., N. C	262.50
W. C. Martin, same P. O.	1,200.00
C. T. Sisk, Ocona Lufta P. O., Swain Co., N. C	168.75
J. H. Teague, Whittier P. O., Swain Co., N. C	200.00
J. D. Wiggins, guardian of minor heirs of Thomas Wiggins, deceased, Birdtown P. O., Swain Co., N. C	500.00
R. O. Patterson, Bryson City P. O., Swain Co., N. C	250.00
M. J. L. Blanton, Birdtown P. O., Swain Co., N. C	400.00
H. S. Baker, Birdtown P. O., Swain Co., N. C	84.00

I herewith attach the original report made by John M. Bird and E. G. Hyatt, of Jackson County, and S. B. Gipson, of Swain County, appraisers, who appraised and fixed the value on certain tracts of land, as shown in said report.

This concludes my report as to the alleged trespassers who occupy and claim land inside of the Qualla boundary, exclusive of the 33,000 acres in litigation with the Love estate. The value fixed upon the tracts of land that lie partly on the outside and partly on the inside of the boundary is based upon the number of acres being on the inside of the boundary as reported.

The land occupied by the trespassers in Birdtown settlement, together with the other lands occupied by the Indians in Birdtown settlement, is reputed to be, and in my opinion is, the best farming section in Swain and Jackson counties. This section is close to the Cherokee training school, which is supported and carried on by

appropriations made by the General Government, and it is only from about three to eight miles from Whittier Station and Bryson City on Murphy division of the Western division of the R. and D. R. R.

Nearly all of the alleged trespassers, as this report shows, have planted out apple and peach orchards. A great many of them now have from 25 to 100 good bearing apple trees and as many good bearing peach trees, and the occupants in Birdtown settlement—that is, the white occupants—have constructed a good house for school and church purposes, that has not been valued in this report, that must have cost about \$300.00. A. H. Moseley and others, colored occupants, have likewise constructed a house for school and church purposes in the locality in which they reside, that has not been valued in this report, which cost them about \$100.00. The land is fertile, produces well, and would make very desirable homes for the Indians.

Respectfully submitted.

GEORGE H. SMATHERS,
Spl. Asst. U. S. Atty.

Hon. RICHARD OLNEY,
Attorney-General United States, Washington, D. C.

SWAIN COUNTY, NORTH CAROLINA, U. S., }
vs.
A. H. HAYES ET AL. }

The undersigned, having been requested by Geo. H. Smathers, atty. for the plaintiffs, and A. H. Hayes, N. Childers, W. A. Enloe, J. R. Kimzey, E. S. Keener, J. D. Wiggins, W. P. Hyde, M. E. Hayes, defendants, we proceeded, on the 6th day of Nov. and days following, to value the lands of said defendants inside the Qualla boundary as follows:

1. M. E. Hayes, 75 acres of land	\$400.00
Houses and other improvements	225.00
50 apple trees	75.00
Total valuation	700.00
2. A. H. Hayes, 104 acres of land.....	1,350.00
Houses and other buildings.....	390.00
260 fruit trees.....	260.00
Total valuation	2,000.00
3. A. P. Childers, 7½ acres land.....	60.00
Houses and improvements.....	55.00
Total valuation	115.00
4. J. D. Wiggins, 48 acres, valued.....	362.00
Houses and other improvements	160.00
Fruit trees	8.00
Total valuation	530.00
5. E. S. Keener, 208 acres, valued at.....	1,375.00
Houses and other improvements	175.00
Fruit trees.....	50.00
Total valuation	1,600.00
6. J. R. Kimzey, 68 acres, valued at.....	466.00
Houses and other improvements	260.00
Fruit trees	160.00
Total valuation	886.00
7. N. Childers, 93 acres, valued at.....	650.00
Houses and other improvements.....	188.00
Fruit trees.....	160.00
Total valuation	998.00

8. W. P. Hyde, 274 acres, valued at.....	\$1,482.00
Houses and other improvements.....	375.00
Fruit trees.....	243.00
Total valuation	2,100.00
9. W. C. Martin, 200 acres in Jackson County, valued at	1,623.00
Cabins and stables	35.00
Total valuation	1,658.00
10. W. A. Enloe, 601 acres, valued at.....	1,500.00
Houses, mill, and other improvements	125.00
Fruit trees	175.00
Total valuation	1,800.00
11. School com.; schoolhouse, dist. No. 12, in Swain Co., N. C., one acre of land, house 24x36 ft., 6 windows, well seated, and two stoves, valued at	300.00

We have been six days engaged in this work.

J. W. BIRD.
E. G. HYATT, *Sur.*
SAM. B. GIBSON.

Subscribed and sworn to before me on this 11th day of Nov., 1893.

J. M. ENLOE,
Justice of the Peace, Swain Co., N. C.

SWAIN COUNTY, NORTH CAROLINA,

Nov. 11th, 1893.

Since making the foregoing report of valuations we have this day, upon the request of B. Dills, looked at and valued the land of said B. Dills.

47 acres	\$580.00
Buildings.....	49.00
Fruit trees.....	25.00
Total valuation	654.00

J. W. BIRD.
E. G. HYATT, *Surv.*
SAM. B. GIBSON.

WAYNESVILLE, N. C., November 25, 1893.

SIR: In compliance with your request of the 17th instant I herewith make report to you of the present status of the litigation of the Eastern Band of Cherokee Indians, i. e., of the two causes prosecuted by the United States and on behalf of the Eastern Band of Cherokee Indians now pending in the U. S. circuit court for the western district of North Carolina, to wit: The Eastern Band of Cherokee Indians *v.* William H. Thomas *et al.* and the United States *v.* William H. Thomas *et al.*; also with my recommendation as to a compromise in the two causes with the occupants and claimants of land inside of the Qualla boundary holding adversely to the Indians.

In order that you may better understand the pending litigation I deem it proper to give you a brief history of these Indians, the origin of the present litigation, and how they acquired title to the land they now own, a part of which is in litigation.

(1) These Indians, called the Eastern Band of Cherokee Indians, number about 1,300 souls, and reside in the counties of Jackson, Swain, Graham, and Cherokee, in this State. The bulk of the tribe, however, live in Jackson and Swain counties, most of them on Soco Creek, in Jackson County, and Oconee Lufta River, in Swain County, inside of a large boundary of land known as the "Qualla boundary." There are, however, about 200 of the tribe that live in Graham County and a few scattered families in Cherokee County.

They hold title to their lands by purchase and not by occupancy. About three-fourths hold title to their lands in common, the remainder in severalty, and hold under two deeds, as follows:

(1) A deed executed by William Johnston and wife to the Eastern Band of Cherokee Indians, bearing date the 9th day of October, 1876, for the tract of land known as the Qualla boundary, which contains about 80,000 acres, which deed contains this proviso, "without the power of alienation, except by and with the assent of the Indian council and the approval of the President of the United States."

This deed was executed by William Johnston and wife to the Eastern Band of Cherokee Indians in pursuance to an award made by Rufus Barringer, John H. Dillard, and T. Ruffin on the 23d day of October, 1874 (which award was made a decree of the court), in the cause of the Eastern Band of Cherokee Indians *v.* William H. Thomas *et al.*, being one of the causes above referred to, which is still pending.

(2) The other deed was executed on the 14th day of August, 1880, by William Johnston and wife, W. L. Hilliard *et al.*, to the Commissioner of Indian Affairs, as trustee for the Eastern Band of Cherokee Indians, and is known as the Sibbald deed. This deed embraces several tracts of land in Jackson and Swain counties, some of which tracts adjoin the Qualla boundary, and various and sundry tracts of land in Graham and Cherokee counties, containing in the aggregate 15,211½ acres. Of this amount 4,188 acres was land that had been awarded by the arbitrator aforesaid in the award of the 23d of October, 1874, to individual Indians of the tribe, to be held in severalty. See copy of bill in equity on file in the Department of Justice in the cause of the United States *v.* William H. Thomas *et al.*, wherein you will find the award above referred to set out as Exhibit A, and the deed executed in pursuance thereto as Exhibit C, and the Sibbald deed as Exhibit D; and for a full history of the litigation of the Eastern Band of Cherokee Indians *v.* William H. Thomas *et al.*, *supra*, and the manner in which the Indians acquired title to the lands in the two deeds, above referred to as Exhibits C and D, reference is made to a letter from the Hon. Henry M. Teller, Secretary of the Interior, to the Speaker of the House of Representatives, entitled "Letter from the Secretary of the Interior in response to resolution of the House of February 25, 1882, relative to the lands and funds of the Eastern Band of the North Carolina Cherokees." (See Ex. Doc. No. 196, Forty-seventh Congress, first session.)

It was upon this report and a report made by Eugene E. White, U. S. special Indian agent, to the Hon. J. D. C. Atkins, Commissioner of Indian Affairs, from Charleston, N. C., December 7, 1885, that led to the bill in equity being prepared and filed by the Hons. A. H. Garland, Attorney-General, and William A. Maury, Assistant Attorney-General, of the United States, in the cause of the United States *v.* William H. Thomas *et al.*, *supra*, reference to which will be made hereafter.

The so-called Eastern Band of Cherokee Indians represent those Indians and their descendants, or most of them, who refused to accompany their brethren West when the bulk of the Cherokee tribe of Indians was removed West in the years 1836-'37, in pursuance to the treaty made and concluded between the United States and the Cherokee tribe of Indians at New Echota, in Georgia, on the 29th of December, 1835. See treaty (7 Stats., 478); also see case of the Eastern Band of Cherokees *v.* United States and Cherokee Nation West, reported in 117th vol. S. C. R., U. S., p. —.

The State of North Carolina, by an act of her general assembly in 1783, reserved to the Cherokee Indians a boundary of land described as follows: "The Cherokee Indians shall have and enjoy all that tract of land bounded as follows, to wit: Beginning on the Tennessee where the southern boundary of this State intersects the same nearest to the Chickamauga towns; thence up the middle of the Tennessee and Holston to the middle of French Broad; thence up the middle of French Broad River (which lines are not to include any island or islands in the said river) to the mouth of Big Pigeon River; thence up the same to the head thereof; thence along the dividing ridge between the waters of Pigeon River and Tuckaseegee River to the southern boundary of this State; and the lands contained within the aforesaid bounds shall be reserved unto the said Cherokee Indians and their nation forever, anything herein to the contrary notwithstanding."

(See acts 1783, section 5; also see 1st vol. Code of N. C., section 2346.)

That part of the boundary reserved by the act of 1783 that lies to the north of the Great Iron or Smoky Mountains is now a part of the State of Tennessee, but was, at the time of the reservation, a part of this State, North Carolina having ceded Tennessee to the United States in 1789.

The Indian right of occupancy to the boundary of land reserved by the act of 1783 was extinguished by successive treaties made and concluded between the United States and the Cherokee Indians between the years 1791 and 1835, the last of which was the treaty at New Echota, above referred to, made on the 29th of December, 1835, by which treaty the Cherokee Indians, as a tribe, extinguished all the right, title, and interest they had to any and all lands occupied by them east of the Mississippi River and, upon certain conditions stated in the treaty, agreed to go West,

and it was with funds derived from this treaty that the Eastern Band of Cherokee Indians, or William H. Thomas for them, purchased the lands described in the foregoing deed as Exhibits C and D, and the lands embraced in said deeds are within the boundary of land reserved by the act of 1783 to the Cherokees.

By the Constitution of the United States the States surrendered their power to make treaties with Indian tribes to the General Government, and although the Indian right of occupancy, after the Constitution, had to be extinguished by treaty between the United States and the different Indian tribes, yet, as North Carolina was one of the original thirteen States, the moment the title to any land occupied by Indian tribes within her borders was so extinguished the land reverted to and became a part of the vacant land or public domain of the State.

(See *Strother v. Cathey*, 1st Murphy, N. C. R., p. 160.)

The general assembly of North Carolina from time to time provided the manner by which citizens of the State could obtain from the State grants or patents for her vacant land, and as the Indian right of occupancy was extinguished by treaty, as aforesaid, for the lands reserved by the act of 1783 to the Cherokees, the said land was granted or patented or otherwise conveyed by the State to individual citizens of the State, from whom the Eastern Band of Cherokee Indians derive title to the lands embraced in the two deeds as aforesaid; hence it is that these Indians derive title to these lands by purchase and not by occupancy, and the term reservation as applied to the land owned and occupied by them is a misnomer.

The Qualla boundary of land is made up of two large tracts which are parts of larger tracts and various and sundry small tracts of land, as follows: About 28,000 acres of a 32,280-acre tract of land known as the Cathcart tract, granted on the 29th of July, 1796, to William Cathcart (being grant No. 224), and about 33,000 acres of land lying to the northeast of Cathcart tract and back to the Balsam and Smoky ranges of mountains, which is a part of a 176,000-acre tract granted or patented by the State to John Grey Blount (being grant No. 252) on the 29th day of November, 1796, better known of late as a part of the James R. Love speculation land, conveyed to him by I. B. Sawyer, clerk and master in equity for Buncombe County, on the 22d of December, 1859 (see supplemental bill on file in the Department of Justice in the case of the United States *v.* William H. Thomas *et al.*, and various and sundry small tracts of land lying to the southwest of the Cathcart tract, lower down on the Oconee Lufta River and Soco Creek, in the Yellow Hill and Birdtown settlements, which said smaller tracts of land contain in the aggregate about 20,000 acres, and it is in this latter locality where 40 or 50 of the alleged trespassers, defendants in the two above-mentioned causes, occupy land, holding the same adversely to the Indians.

According to a recent survey made by Mr. Frank A. Pierce, a surveyor appointed by the court in the cause of the United States *v.* William H. Thomas *et al.*, two parties were found in possession of the Cathcart tract, to wit: W. A. Cambell, who claims about 15 acres in Soco Gap, in the northeast corner of said Cathcart tract. He claims title to the 15 acres through a grant issued by the State to Amos Plott about the year 1850, for 50 acres of land which adjoins the Cathcart tract and the 15 acres is a lappage; W. A. (or Aseph) Enloe, who claims 640 acres of land in the northeast corner of the said Cathcart tract under two State grants issued to W. P. Hyde, one grant No. 119, dated 18th day of August, 1880, for 540 acres, entered March 1, 1873, the other grant, No. 7,118, dated 15th day of May, 1885, for 100 acres, entered 12th of March, 1875. The grants call for the line of the Cathcart survey, and the defendant, Enloe, claims that upon a proper survey of the Cathcart tract these grants are not within the bounds of the Cathcart tract, and that several surveys made previous to that made by Mr. F. A. Pierce left him on the outside of the Cathcart tract.

The survey made by Mr. Pierce was by level measurement, while the previous surveys were probably made by surface measurement. The latter mode, though not the correct one, seems by custom to have been the manner by which the mountain lands of this country were surveyed. The two tracts of Enloe may be on the outside of the Cathcart tract, but both are unquestionably inside of the Qualla boundary as defined in the award, but unless Enloe is on the inside of the Cathcart tract we can not show title in Thomas to the two tracts of land occupied and claimed by him as aforesaid. As to W. A. Cambell, the 15 acres is without doubt within the boundary of the Cathcart tract, and I do not believe that his claim of title by possession or otherwise can be maintained. As to Enloe, his claim by possession is better, and if the defendants in the pending litigation can avail themselves, as they have endeavored to do, of the State's statute of limitation, his title may have ripened against the Indians, except the *femes covert* and the minors of the tribe who constitute about three-fourths of the band. The Indians are in the peaceful and undisturbed possession of the rest of the Cathcart tract inside of the Qualla boundary, which contains about 28,000 acres of land, as aforesaid, and from 50 to 100 Indian families of the Cherokees reside thereon.

As to the 33,000 acres lying to the northeast of Cathcart tract inside of Qualla boundary, above referred to as a part of the Love speculation land and as conveyed by I. B. Sawyer to James R. Love on the 22d of December, 1859, I have to report that every foot of this part of the boundary is in litigation with R. D. Gilmer, trustee of the James R. Love estate, and M. M. Stringfield *et al.*, heirs at law of James R. Love and R. V. Welch *et al.*, beneficiaries in the Love speculation land. These parties were brought into the cause of the United States *v.* William H. Thomas *et al.*, *supra*, by a supplemental bill filed therein on the 4th of January, 1891, a copy of which supplemental bill has heretofore been sent to the Department of Justice and is now on file in the Assistant Attorney-General's Office.

By reference thereto it will be seen that the complainants allege that at the time of the award that the defendant, William H. Thomas, had a good title, either legal or equitable, to the said 33,000 acres of land, and among other things alleged by the complainants it is alleged that the defendant, William H. Thomas, was the equitable owner of an undivided twenty-fourth interest in 200,000 acres of land (being the land embraced in the I. B. Sawyer deed to James R. Love of the 22d of December, 1859), of which the 33,000 acres is a part thereof, and the prayer of the complainants in the said supplemental bill is to set up the lost titles of Thomas to said 33,000 acres, and in the event it should turn out that Thomas did not have title to the 33,000 acres, then for partition between the said Thomas and his cotenants of the 200,000 acres, and that the one twenty-fourth interest of Thomas therein be assigned and located on the 33,000 acres, so as to perfect the title of the Indians.

The said defendants, in answering the said supplemental bill, deny that Thomas had title, at the time of the award, to the 33,000 acres, and say that, by a proper construction of the award, the 33,000 acres is not included in the award. They do admit, however, in their answer, that the 33,000 acres was embraced in a survey, made by M. S. Temple, deputy U. S. surveyor, of the Qualla boundary and within the deed executed by William Johnson and wife to the Eastern Band of Cherokee Indians on the 9th of October, 1876, hereinbefore referred to as Exhibit D, which deed was executed in accordance with the M. S. Temple survey. By reference to the award and supplemental bill aforesaid it will be seen that the arbitrators did not direct a conveyance to be executed by Thomas to the Indians for the Qualla boundary of land, but directed that William Johnson, the codefendant of Thomas, who had purchased the Qualla boundary, or a part of it, at sheriff's sale under executions against Thomas, should convey the legal title to the Indians. The following language is used by the arbitrators in the seventh item of the award: "We do further award that the said plaintiffs shall have a perfect equity to demand and have of him, the said Johnson, a conveyance of the legal title to all lands embraced within their said Qualla boundary, the same to be made to them or to some trustee for them."

This part of the boundary, however, that is, the 33,000 acres, was not sold under the executions and purchased by William Johnston by the sheriff's deed. And while I am of the opinion that the award divested all the right, title, and interest that Thomas had in the lands embraced in the award, it is very unfortunate for the Indians that the arbitrators did not require Thomas to make a good title to the land.

The matters in controversy as to the 33,000 acres raised by the supplemental bill and answer thereto are referred to R. M. Douglas, master, a copy of which order of reference is herewith sent, marked Exhibit A. The referee has not yet acted. I do not believe that we will be able to show that Thomas had title at the time of the award to the 33,000 acres of land, but have hopes that the court will grant the partition and set out Thomas's interest in the 200,000 acres of land in the 33,000 acres, provided we can successfully sustain the award, and feel very confident that we can, and maintain that the award embraces the 33,000 acres, which I believe we can do.

In the course of my investigation of this matter I have been able to find an agreement, entered into between James R. Love and William H. Thomas in the year 1857, at which time James R. Love was the owner of a half interest of a large boundary of land that included the 33,000 acres; and the contract, which shows that he contemplated purchasing the remainder of the boundary, tends to show that Love was to convey to Thomas a boundary which would embrace the 33,000 acres. One million dollars was the consideration expressed in the contract; but as we will probably not be able to show that the money was ever paid, the court will presume an abandonment of the contract.

As to the location of this land, see map of Qualla boundary, on file in Indian Office, made by M. S. Temple, which map is also attached to Ex. Doc. No. 196, above referred to. I also send with this report a map, prepared by Mr. Frank A. Pierce, showing location of Qualla boundary of land and its location and connection with other tracts referred to in this report and the adjoining country.

The 33,000 acres of land above referred to is mostly mountainous. The nearest point to the railroad is about 18 miles, but it contains from 10,000 to 15,000 acres of very fine timbered land. The other is of very little value, except for cattle range,

and it is desirable for the Indians to have it on account of giving to them a natural boundary. The 33,000 acres is worth from \$1.25 to \$1.75 per acre.

The remainder of the Qualla boundary, as above stated, lies to the southwest of the Cathcart tract, and is made up of various and sundry small tracts of land, containing in the aggregate about 2,000 acres. This is by far the most valuable part of the Qualla boundary. The land lies lower down, on the Oconee Lufta River and Soco Creek. It is warmer, more fertile, and contains a much larger per cent of arable bottom land than the other parts of the Qualla boundary. It is reputed to be, and in my opinion is, the best farming section of Swain and Jackson counties. It is in this locality where the Cherokee training school is located. It is accessible to the railroad, being from 3 to 8 miles from Whittier station, on line of Murphy branch of the Western Division of the Richmond and Danville Railroad.

This section embraces what is known as the Yellow Hill and Birdtown settlements, and it is mostly in the latter locality and on the lower part of the boundary, on Oconee Lufta River and its tributaries, where W. P. Hyde, A. H. Hayes, and 40 or 50 other persons occupy or claim land adversely to the Indians. The names of these parties are fully set out in a statement annexed to this report, which will be referred to hereinafter. These parties, or most of them, have been in possession of the lands occupied by them for from five years running back to the date of the award on the 23d of October, 1874, and I am informed that some two or three of the parties were in possession at the time the award was made. They all claim title to the land by and through State grants, most of them through the defendant, W. P. Hyde, who obtained grants from the State for the land, between the years 1876 and 1885, upon entries made prior to the dates of the grants. They claim the land was vacant and subject to entry and grant at the date of the award, and not being parties to the cause, to wit, *The Eastern Band of Cherokee Indians v. William H. Thomas et al.* at the time of the award and decree had thereupon, that they are not bound by it.

In the 9th item of the award made by Barringer, Dillard, and Ruffin they find as follows: "We find that William H. Thomas purchased the Cathcart survey of 33,000 acres and other adjoining tracts and entries out of part of which the said Qualla boundary is composed, and that he extinguished the titles of all whites inside of said boundary, with the single exception of that one of Ute Sherrell, and that but few of his title papers have been registered, and but few of his deeds, too, and his written contracts of sale with said Indians, whether at Qualla or elsewhere, have been registered. We do, therefore, award that all of said deeds to Thomas, under which the said Indians claim, and all his deeds and written contracts of sale to them or any of them shall be registered in the proper offices of the State, and to the end that this may be properly attended to by some competent person we do award that all such deeds and contracts be delivered to W. W. Rollins, one of plaintiffs' agents for registration.

These title papers and contracts were not registered as directed in the award and a great many were lost and destroyed, as will be seen by reference to the very able report made by Eugene E. White, special U. S. Indian agent, to the Hon. J. D. C. Atkins, Commissioner of Indian Affairs, from Charleston, N. C., bearing date December 7, 1885. Reference is also made to this report as containing a true statement of the reckless manner in which this State issues grants or patents for land, whether vacant or not, and of facts which have greatly embarrassed the complainant, the United States, in the present litigation.

Since this report the title papers and contracts that could be found covering the Qualla boundary have been registered, and some of the title papers that could not be found at the time of the report have since been found and recorded, but we have been unable to find title papers covering about one-half the tracts of land in Birdtown settlement occupied by the alleged trespassers. These defendants have had all the grants through which they hold and other title papers registered.

By a survey name by R. Justice, surveyor, in the cause of *The United States v. William H. Thomas et al.*, in locating the different tracts of land in this locality, he located fifteen or twenty tracts which were found to be in the possession of W. P. Hyde and others, alleged trespassers, but after several of these tracts of land have been located, we are confronted with the difficulty of not being able to show mesne conveyances from the State to Thomas, and will not be able by sufficient testimony to show the loss or destruction of such mesne conveyances and the other lost deeds to the particular tracts of land.

By an act of the general assembly of North Carolina, passed in 1835, authority was given by the governor of the State to convey to the justices of Haywood County court certain land, which act is in the following words: "It shall be the duty of the governor of the State to convey to the justices of Haywood County court, in trust for the said county, any tracts of land, commonly called Cherokee lands, remaining unsold within the limits of said county whenever the said justices shall execute and deliver to the State treasurer bonds, with securities to be approved by him, for such sum as the said lands may be ascertained to come to at the prices prescribed by law

as the minimum prices for lands of the quality, that the said tracts were apportioned to be by the commissioners by whom the same were surveyed."

Haywood County, at the time of this act, was the mother county of this section of Swain County; that is, the lands located in the Birdtown settlement inside of Qualla boundary.

The justices of Haywood County court complied with the terms of the act, and the governor conveyed to them the land in pursuance thereto, and the said justices appointed commissioners to make titles to the tracts of land mentioned in the act, and it is very certain that title was made to Thomas and those from whom he derived title by these commissioners, between the years 1836 and 1840, to most of the land in the Birdtown settlement, a part of which is now occupied by the alleged trespassers. This must be so, for the reason that quite a number of the Indians live on tracts of land, adjoining the tracts occupied by the alleged trespassers, of even less value than the tracts occupied by the Indians trespassers, and the title to the land so occupied by the Indians was derived from the commissioners, as aforesaid, between the years 1836 and 1840, and it is not probable that the purchasers would take up the less valuable land, or that this land would remain vacant from the year 1836 up to the time of the grants through which the defendants, or alleged trespassers, claim title, that were issued to W. P. Hyde and others between the years 1875 and 1885.

Some of the lands in this locality, however, were granted by the State to individuals prior to the act aforesaid, but very few tracts were so granted.

There was no record kept by the justices of Haywood County court as to the tracts of land conveyed by the commissioners as aforesaid, and if the deeds to such tracts were lost or destroyed, without having been recorded in the proper county, you can readily see the great difficulty we would now have in attempting to prove the loss or destruction of such deeds, or transfer deeds, made by the purchasers, executed between the years 1836 and 1840, to the particular tracts of land covering the various and sundry tracts in controversy. If the lands had been granted directly from the State it would be otherwise, for in that event we could obtain abstracts of such grants from the office of secretary of state. We can, however, show a good title to about one-third of the tracts of land occupied by the alleged trespassers in the Birdtown settlement, but to do so by reference it will be very expensive, as it will involve a long and tedious investigation.

This concludes my report as to the status of the pending litigation inside of the Qualla boundary, except my recommendation as to a compromise with the allowed trespassers inside of Cathcart tract and the Yellow Hill and Birdtown settlements, which will be hereinafter made, except also as to a rule granted by the court against the defendants inside of Qualla boundary in the case of *The Eastern Band of Cherokee Indians v. William H. Thomas et al.*, which will be hereinafter explained.

It will be seen by reference to Exhibit B, set out in the award, that the arbitrators settled some matters in controversy between the defendants, William H. Thomas and William Johnston, and that Thomas D. Johnston and James W. Terrell were appointed commissioners to sell certain lands therein referred to lying on the outside of Qualla boundary in the counties of Jackson, Swain, Macon, Graham, and Cherokee which were purchased by Johnston under executions against Thomas, who obtained sheriff's deed for the same about the same time that Johnston purchased the Qualla boundary and obtained a sheriff's deed therefor.

At the time the award was made the Indians did not have any interest in the matters in controversy between Thomas and Johnston as to the lands outside of Qualla boundary, further than to see that the lands awarded to the individual Indians mentioned in the award, who had contracted and paid Thomas part of the purchase money therefor, should be relieved of the lien of Johnston's judgments. But the Commissioner of Indian Affairs, in supposed pursuance to an act of Congress passed the 3d of March, 1875 (18 Stat., 447), purchased the balance of the judgments of Johnston *v. Thomas* referred to in Exhibit B, which at the time amounted to \$19,245.53, with funds belonging to the Indians, and afterwards by an act of Congress approved August 14, 1876 (19 Stat., 139), received a part of the lands set out in Exhibit B in satisfaction of said judgment. There was very little care exercised by the officials of the Interior Department, who had the matter in charge, in receiving the lands taken in satisfaction of the judgments, for it is now known that a number of the tracts of land conveyed in the Sibbald deed were then in the possession of persons who had previously purchased the same from Thomas and held deeds therefor or contracts that would be binding on Thomas or anyone purchasing from him.

There are, all told, from 25 to 50 persons in possession of different tracts of land received in satisfaction of the Johnston judgments set out in Exhibit D, some of whom have obtained grants from the State and have had the same recorded in the counties in which the lands lie; most of them, however, hold under Thomas in the manner above stated.

The Thomas estate, recognizing their liability to the Indians for having deeded to them lands that William H. Thomas or his agents had previously sold or con-

tracted to sell to other persons, have agreed in writing, which agreement is filed in the cause of the United States *v.* William H. Thomas *et al.*, to give other lands of equal value to the lands taken in satisfaction of the Johnston judgments, that William H. Thomas or his agents had previously conveyed to parties who hold a paramount title to any tracts of land conveyed in the Sibbald deed of the 14th of August, 1880, set out as Exhibit D.

Since my employment as special counsel in charge of the pending litigation I have found State grants to Thomas, or those from whom he derived title, to all the tracts of land embraced in the Sibbald deed, marked Exhibit D, except tract No. 59 therein described as the Amanda Gaither cove tract, but there are some transfer deeds from some of the parties who derive title from the State, and from whom it is claimed Thomas purchased the land, that are missing that have never been recorded. About a year ago I found several of the State grants to tracts of land conveyed in the Sibbald deed, Exhibit D, that had never been recorded, which grants cover land occupied by persons holding adversely to the Indians, and in suit in the pending litigation. The persons holding adversely to the Indians have long since obtained grants from the State and had the same duly recorded.

I had the unregistered grants I found in the Indian Office registered some months ago, but for want of registration of these grants under which the Indians claim title within the time prescribed by law, the Indians not being in possession of the land, I am confident that the subsequent grantees or patentees from the State, who had their grants recorded first, that are in possession of the land, will prevail in the litigation. (See section 2779, second volume, Code of N. C.)

The bill in equity filed in the cause of the United States *v.* William H. Thomas *et al.*, *supra*, had for its object:

First. To carry into effect the award made in the cause of the Eastern Band of Cherokees *v.* William H. Thomas *et al.*

Second. To compel a discovery from the defendants therein named as to the manner in which they held title to the lands occupied by them inside of the Qualla boundary, and the lands received in satisfaction of the Johnston judgment conveyed in the Sibbald deed outside of the Qualla boundary.

Third. To set up the lost titles referred to in the bill and for general relief, and to this end investigation was asked before a master learned in the law.

The defendants against whom discovery was asked in the bill made answer thereto, setting forth how they claimed title to the land occupied by them, to wit, by grants issued from the State of North Carolina to them or persons from whom they derive title, and attached copies of the grants under which they claimed title to the land occupied by them to their respective answers, which made a full answer to the bill of discovery. It was then left for the complainant to show a superior title in the Indians than that claimed by the defendants by setting up lost titles or otherwise.

The cause of the Eastern Band of Cherokee Indians *v.* William H. Thomas *et al.*, in which the award was made, had been kept on the docket of the U. S. circuit court for the western district of North Carolina, at Asheville, N. C., and orders made in the cause from time to time up to November 15, 1892, and it having occurred to me that relief could be had against the alleged trespassers inside of Qualla boundary by a motion in the cause, and upon petition of the Eastern Band of Cherokee Indians a rule was granted on November 15, 1892, by the Hons. N. Goff, circuit judge, and R. P. Dick, U. S. district judge, against the alleged trespassers returnable to May term, 1893; of said court to be held at Asheville, for the said parties therein named to show cause why they should not be attached for contempt for entering upon said Qualla boundary of land while the same remained in the custody of the court, and to further show cause why they should not be evicted therefrom; a copy of which petition and order, or rule, is herewith sent, marked Exhibit B.

Notice was served on the parties named in the rule, who made answer thereto by setting up the grants under which they held title to the lands occupied by them, which answers were substantially the same as those made to the bill of discovery in the cause of the United States *v.* William H. Thomas *et al.* When the answers to the rule were filed the court ordered a reference to R. M. Douglas, master, to ascertain which of the defendants in the rule had entered upon the said Qualla boundary after the award made on the 23d day of October, 1874, and which, if any, were in possession of the land at the date of the award. This order of reference is still pending and has not yet been acted upon by R. M. Douglas, master. I feel very confident that when the report of the master is made that the circuit judges will grant an order directing that the U. S. marshal for the western district of North Carolina, to remove the alleged trespassers and occupants inside of the Qualla boundary therefrom, but the order will be made without prejudice to their title; in fact, the judges have announced such an intention. This would not end the litigation, for when the alleged trespassers should be evicted from the boundary

they would at once institute suit in the State courts to recover the land upon their titles, which would lead to endless litigation.

In the eleventh and last item of the award the arbitrators find as follows: "The cost of the suit at law having been herein before disposed of, we award that all the costs be taxed in the equity case and be paid one-half by the plaintiffs and the other half by the defendants, W. H. Thomas and William Johnston. We leave the allowance to the arbitrators, and the manner of its payment to be fixed and provided for by the judge."

The cost of the equity case amounted to about \$3,600 and the United States, soon after the award, paid through the U. S. marshal for the western district of North Carolina all the costs of the equity suit except about \$300, and upon an order made by Hon. R. P. Dick, U. S. district judge, paid the full amount allowed to the arbitrators for their services, which amounted to about \$2,000 each.

Upon petition filed in the cause by the Eastern Band of Cherokee Indians on November 15, 1892, an order was granted by the Hons. N. Goff, circuit judge, and Robert P. Dick, U. S. district judge, against the representatives of the said William H. Thomas and William Johnston, to show cause at the May term, 1893, of the court to be held at Asheville, N. C., why they should not pay the costs awarded against the said William H. Thomas and William Johnston, a copy of which petition and order is herewith sent, marked Exhibit C.

At May term, 1893, of the court, James R. Thomas, guardian of William H. Thomas, and Thomas D. Johnston, executor of William Johnston, appeared by their counsel in answer to the order made on them and plead the statute of limitations as against the payment of the costs awarded to be paid by the said William H. Thomas and William Johnston. The circuit judges withheld their judgment and referred the matter to R. M. Douglas, master, to ascertain the exact amount of costs paid by the United States and what amount, if any, had been paid by the defendants, William H. Thomas and William Johnston. This order of reference is still pending and has not yet been acted upon by the master, though it is well known by the master what amount of the costs was paid by the United States, for he was at the time U. S. marshal for the western district of North Carolina and disbursed the money that paid most of the costs.

The defendants in the two causes plead to the jurisdiction of the court, and deny that the U. S. court has jurisdiction of the matters in controversy. In support of their position they rely on the decision in the case of the Eastern Band of Cherokees v. the United States and Cherokee Nation West, reported in the one hundred and seventeenth volume S. C. R., U. S., p. —.

I am of the opinion that their position would be tenable if the suit was brought by the Eastern Band of Cherokee Indians as wards of the Government, for in the case above referred to it was decided that these Indians are citizens of this State; but as the United States took supervisory charge of the litigation of the Cherokees, and took possession of their title deeds and written contracts to the land awarded to them, and the lands taken in satisfaction of the Johnston judgment, and it was by the carelessness and negligence of the agents and officials of the United States that the title papers and other written contracts of the Indians were lost and destroyed, and as the United States used money of the Indians in the purchase of the lands awarded to them, and the lands received in satisfaction of the Johnston judgment, they (the United States) thereby became a trustee, and being a necessary party to the litigation, I am of the opinion that the U. S. court has jurisdiction of the subject matter in controversy.

It is very manifest from the bill filed in the cause of the United States v. William H. Thomas *et al.*, *supra*, that it is the intention of the United States to do complete justice to the Indians, and as it appears that the money of the Indians paid for all the lands within the Qualla boundary, also for the lands received in satisfaction of the Johnston judgments, I think it is a duty incumbent upon the United States to secure a good title for the lands so purchased with money of the Indians or to give the Indians an equivalent in cash therefor, and as it appears impracticable to secure a good title by further litigation to the lands occupied by the alleged trespassers inside of the Cathcart tract, and Yellow Hill and Birdtown settlements, inside of Qualla boundary of land, I recommend that a compromise be made with the alleged trespassers, and that at least three-fourths of the appraised value as per the annexed report of all lands in the actual occupation of the alleged trespassers be paid to them as a compromise of the pending litigation.

I also annex a report showing the names of parties who hold State grants to lands within the boundary, together with the value of such tracts that are not in the possession of the claimants. These tracts of land are mostly mountainous and cases of lappage, and as the grants under which these claimants hold have been duly recorded and are clouds upon the Indian titles, if not superior to them, and wishing to end litigation, I recommend that a compromise be made with them upon the same terms

as proposed with the alleged trespassers who are in the occupation of the lands claimed by them.

I will state that in company with the counsel for the defendants, Messrs. W. B. Ferguson and G. S. Ferguson, we made a house-to-house canvass and carefully viewed the lands claimed and occupied by the alleged trespassers, which consumed between two and three weeks' time. When the work was completed I made known to the defendants, the alleged trespassers, the value I had fixed upon each tract, when some of them excepted to the value fixed by me upon the tracts occupied by them. We then agreed to leave the appraisement to John M. Bird, S. B. Gibson, and E. G. Hyatt, the two former citizens of Swain County and the latter of Jackson County, all three being men of unquestioned integrity and good judges of the value of land, who, after being duly sworn, fixed the value of the lands of the parties who excepted to my appraisement, and who very materially raised the valuation fixed by me on the said lands, and in consequence thereof and at the request of Col. R. B. Glenn, U. S. attorney for the western district of North Carolina, I have felt constrained to fix a higher value on the land than that first fixed by me. But I have not felt justified in fixing the value of the lands as high as that fixed by the appraisers. I send herewith the report of the appraisers annexed to my report for your examination.

If the compromise, as proposed, should meet your approval and you recommend to Congress an appropriation to carry the same into effect, an agreement of compromise will be entered into and filed in the cause, and proper caution will be taken to extinguish the title of all possible claimants within the Cathcart tract and Yellow Hill and Birdtown settlements inside of Qualla boundary.

If this compromise can be had, I verily believe it will put an end to any and all litigation for the present and future, as the general assembly of this State in 1889, private laws, chap. 211, entitled "An act incorporating the Eastern Band of Cherokee Indians, and for other purposes," ratified and made good all deeds to which the Indians held title to their lands.

A copy of which act is herewith sent marked Exhibit E.

In order to complete the investigation of the matters in controversy between the Love estate and the Indians as to the 33,000 acres of land, and the other matters referred to R. M. Douglas, master, and to pay costs already incurred in the pending litigation, an appropriation will be necessary of at least \$5,000 to pay the expenses incident to the litigation, exclusive of that asked for to carry the compromise into effect, with the alleged trespassers upon the terms hereinbefore stated.

Respectfully submitted,

GEORGE H. SMATHERS,
Special Assistant U. S. Attorney.

Hon. RICHARD OLNEY,
Attorney-General, Washington, D. C.

